

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.5382 of 2013

IN

Civil Writ Jurisdiction Case No. 8487 of 2008

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Rajesh Kumar Singh S/O Anirudh Prasad Singh Resident Of Village Mainagram,
P.S. Saharsa, District Saharsa.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Mr. Amarjeet Sinha, The Secretary Cum Commissioner, Human Resources Department, Government Of Bihar, Patna.
3. Mr. Ram Bujhwan Choudhary, The Director, Secondary Education, Human Resources Department, Government Of Bihar, Patna.
4. Mr. Rameshwar Singh, The Commissioner, Department Of Finance, Government Of Bihar, Patna.

.... Respondent/s

with

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Miscellaneous Jurisdiction Case No. 5368 of 2013

IN

Civil Writ Jurisdiction Case No. 8487 of 2008

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Sarbesh Kumar Singh, Son of Dr. Panchanan Singh, Resident of Anisabad, P.S.-
Anisabad, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Mr Amarjeet Sinha, The Secretary-cum-Commissioner, Human Resources Department, Government of Bihar, Patna.
3. Mr. Ram Bujhawan Chaudhary, The Director, Secondary Education, Human Resources Department, Government of Bihar, Patna. null null
4. Mr. Rameshwar Singh, The Commissioner, Department of Finance, Government of Bihar, Patna. null null

.... Respondent/s

with

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Miscellaneous Jurisdiction Case No. 5341 of 2013

IN

Civil Writ Jurisdiction Case No. 8487 of 2008

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Jagannath Jha Son Of Nageshwar Jha R/O Village- Dumra, P.S.- Chatra, District-
Madhubani

.... Petitioner/s



Versus

1. The State Of Bihar
2. Mr. Amarjeet Sinha, The Secretary-Cum-Commissioner, Human Resources Department, Government Of Bihar, Patna.
3. Mr. Ram Bujhawan Choudhary, The Director, Secondary Education, Human Resources Department, Government Of Bihar, Patna.
4. Mr. Rameshwar Singh, The Commissioner, Department Of Finance, Government Of Bihar, Patna

.... Respondent/s

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Appearance :

(In all the cases)

For the Petitioner/s : Mr. Amish Kumar

For the Respondent/s : Mr. Lalit Kishre, Advocate General

Mr Birju Prasad, GP 13

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 20-12-2017

In all these contempt applications grievances of the petitioners are that the order passed in the writ petition on 16.08.2011 in CWJC No. 8487 of 2008 has not been complied with.

The writ petition was disposed of in terms of the order dated 08.10.2010 passed in CWJC No. 10541 of 2009. The order passed was dated 08.10.2010 and show cause issued in the said case was quashing the impugned order contained in Memo No. 68 of 20th April, 2005 and it was directed that the correction made in the appointment letter by the memo dated 20th April, 2005 shall be made applicable from the date of the original appointment letters were issued and all other consequences with regard to pay fixation, increment, revision of pay scale shall follow. During pendency of



the matter, various show causes have been filed and from the material that has come on record it is clear that pay fixation has been done, increment and revision of pay scale have also been granted.

But now the grievances of the petitioners are that even though that by passing the order dated 02.11.2010 the order has been complied with but their pay has been fixed in pay scale of Rs.9300-34800/-, and inspite of granting them grade pay of Rs.4800/- as originally recommended by the Department they are only being granted grade pay of Rs.4200/-. Initially, when this was brought to the notice of this Court, by a detailed order passed on 15.09.2017 this Court found that in the order passed on 02.11.2010 the recommendation was to fix the pay in the scale of Rs.9300-34800/- in the grade pay of Rs.4800/-. Instead of this recommendation when grade pay was fixed at Rs.4200/-, the respondents were directed to file supplementary show cause and explain the position.

The respondents have filed various show causes and point out that even though certain recommendations were made as indicated to this Court but as per the requirement of pay revision and recommendation of the Finance Department the action taken at the departmental level for recommending the grade pay of Rs.4800/- was not correct and it is stated that the petitioners are entitled to grade pay of Rs.4200/- as recommended by the Finance Department.



Having considered the rival contentions and the show cause what have been brought on record from time to time it is clear that there is a dispute now between the parties as to what would be the grade pay payable to the petitioners. These are contempt proceedings and in the absence of there being any specific direction in the writ petition for fixing the pay in particular pay scale with a particular grade pay, the dispute now as to what should be the grade pay, cannot be adjudicated in a contempt proceeding. The order passed in the writ petition was to the effect that after the impugned order dated 20.04.2005 is quashed the consequence shall follow, and if the respondents have indicated as to what is the consequence of the order and it is their case that pay has been properly fixed in the appropriate grade pay of Rs.4200/-, the dispute now raised by the petitioners as to whether their grade pay is Rs.4800/- or not, cannot be gone into these proceedings for contempt. Once the respondents have granted revision of pay in a particular grade pay as per their assessment, the question as to whether this act of the respondents is correct, incorrect or illegal cannot be adjudicated in these contempt proceedings.

Accordingly, finding that it is not a proper or fit case where action for contempt can be initiated under the law these contempt applications are disposed of. The respondents are



discharged from their liability in the proceedings and the liberty is granted to the petitioners to challenge the fixation of pay, revision of scale or grant of grade pay, if they so desire, in accordance with law.

With the aforesaid, these MJC Applications stand disposed of.

(Rajendra Menon, CJ)

mr.l./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	03/01/2018
Transmission Date	

