

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.360 of 2017

In
Letters Patent Appeal No.2302 of 2016

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1. Dr. Sharda Nand Singh, S/o Late Lal Bihari Singh, resident of Flat No. 83/84, Officers Flat, New Punaichak, P.S. L.B.S. Nagar, District- Patna-23, presently posted as State Examiner of Questioned documents in Police Laboratory C.I.D., Bihar, F.S.L Building Baily Road, Patna.
 2. Jayant Kumar, S/o Late Dr. Lakshman Gupta, resident of Urmila Sadan, Kasturba Nagar, Bazar Samiti, P.S. Bahadurpur, Mahendru, Patna - 6 presently posted as SE of Finger Prints. Bureau C.I.D., Bihar, Patna.
 3. Ashutosh Kumar, S/o late Sri N.N. Mandal, resident of C - 3, Lane - 6, Vijaynagar, P.S.- Rukunpura, Patna - 14, presently posted as SE of Finger Prints. Bureau CID, Bihar, Patna
 4. Shakuntala Kumari, W/o Sri Ramu Singh, resident of C - 504, Officer's Hostel, P.S. Kotwali, Bailey Road, Patna - 1, posted as SE of Finger Prints. Bureau CID Bihar, Patna
 5. Lakhan Lal Singh, S/o Late Munshi Lal Singh, resident of Nehru Nagar, 537, Lane No. 29, P.O.& P.S. Patliputra, Patna - 013, presently posted as SE of Finger Prints. Bureau CID, Bihar, Patna.
 6. Sanjay Kumar, S/o Sri S.L. Paswan, resident of Chandpur Bela, (Devi Asthan), GPO P.S. Jakkanpur, District- Patna, presently posted as SE of Finger Prints. Bureau CID Bihar, Patna.
 7. Anil Kumar Gupta, S/o late Sheo Shankar Prasad Gupta, resident of Mahabir Colony, Saichak, Anisabad, P.S. Beur, District-Patna - 2 presently posted as State Examiner of Finger Prints, Finger Print Bureau, CID, Bihar, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretry, Govt. of Bihar, Old Secretariat Building, Patna.
2. The Principal Secretary, Home (Police) Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Additional Director General of Police, CID, Bihar, Old Secretariat, Patna.
6. Raju Chaudhary, S/o Sri Pyarelal Chaudhary, resident of village Nizampur, P.O. Naubatpur, P.S. Naubatpur, District - Patna presently posted as State Examiner of Questioned Documents, Police Laboratory, CID, Bihar, Patna.
7. Raju Kumar S/o Kishundeo Dishwa resident of Flat No. 204, West Patel Nagar, P.S. Shastri Nagar, District Patna, presently posted as State Examiner of Questioned Documents, Police Laboratory, CID, Bihar, Patna.
8. Dr. Santosh Kumar Sinha, S/o Sri Kameshwar Prasad Sinha, resident of Maheshnagar Road No. 3, P.S. Patliputra, District Patna presently posted as State Examiner of Questioned Documents, Police Laboratory, CID, Bihar, Patna.

... .. Respondent/s



Appearance :

For the Petitioner/s : Mrs. Nivedita Nirvikar
For the Respondent/s : Mr. P. K. Verma (AAG 3)

CORAM:

HONOURABLE DR. JUSTICE RAVI RANJAN

AND

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 28-03-2018

Heard learned counsel for the parties.

2. This review application has been filed for review of judgment and order dated 11.07.2017 passed in L.P.A. No. 2302 of 2016 arising out of C.W.J.C. No. 12323 of 2016.

3. Petitioners have filed writ petition being C.W.J.C. No. 12323 of 2016 to grant the benefit of the revised pay scale with effect from 01.01.2006 in PB-2+ Rs. 4,800/- and PB-3+ Rs. 5,400/- on completion of four years of service with a further prayer to modify the decision of Finance Department memo dated 04.03.2014 by which resolution for grant of higher pay scale to the petitioners have been made effective from the date of issuance of notification and not with effect from 01.01.2006 from which 6th pay revision recommendations were made effective.

4. Petitioners are posted as State Examiner of question documents in the police laboratory and as State Examiner of finger prints in finger print bureau in the Crime Investigation



Department, Department of Home (Police), Government of Bihar.

5. The State Government implemented the recommendation of 6th pay revision commission with effect from 01.01.2006. The benefit of revised pay scale was granted notionally from 01.01.2006 and actually from 01.04.2007.

6. Petitioners were recommended pay scale of pay band 2 and grade pay of Rs. 4,600/- and same was accepted by the State Government and vide resolution No. 630 dated 21.01.2010 issued by department of Finance, revised pay scale was made effective from 01.01.2006 on notional basis and 01.04.2007 on actual basis.

7. Petitioners being aggrieved by fixation of their pay scale filed a writ petition being C.W.J.C. No. 7950 of 2011 in which this Court on consideration of the entire facts held that State cannot take the plea that if pay revision committee and pay anomaly committee committed mistake it cannot be rectified by the State Government. After hearing counsel for the petitioner and counsel for the State this Court noticing the genuineness of the claim of the petitioners directed department of Finance by order dated 05.08.2013/29.08.2013 to take a final decision in consultation with the department of Home.



8. On 04.03.2014 the Additional Secretary, Department of Finance issued a letter with the correction in the resolution No. 630 dated 21.01.2010 for grant of revised pay scale to the petitioners.

9. On 26.05.2014 petitioner represented the respondent Principal Secretary, Department of Finance for correction in the effective date of grant of revised pay scale and represented the Principal Secretary to extend the benefit of revised pay scale to be granted notionally with effect from 01.01.2006 and actually with effect from 01.04.2007 as admissible to the employees/officers of the State Government pursuant to resolution No. 630 dated 21.01.2010.

10. In their representation attention of the Principal Secretary, Department of Finance was drawn to the departmental letter No. 1562 dated 14.02.2014 by which the benefit of revised pay scale was extended to Assistant Public Prosecutor in the same department of Home with effect from 01.01.2006 notionally and actually with effect from 01.04.2007.

11. It has been submitted by the petitioners that the recommendation of 6th pay revision committee was implemented by the respondent State of Bihar vide resolution No. 630 dated 21.01.2010 and the benefit of revised pay scale



under 6th pay revision was extended to all the State Government employees notionally with effect from 01.01.2006 and actually from 01.04.2007 and petitioners are also entitled for similar benefit of 6th pay revision notionally from 01.01.2006 and actually from 01.04.2007 as granted by the State of Bihar to all its employees. However, they have been granted benefit of pay revision from 04.03.2014 from date of issuance of notification by the department of Finance, Government of Bihar. The writ petition filed by petitioners was dismissed by this Court on 17.11.2016 by a Single Judge.

12. The petitioners thereafter preferred L.P.A. being L.P.A. No. 2302 of 2016 and same was dismissed by order dated 11.07.2017.

13. Aggrieved by the decision dated 11.07.2017 passed by Division Bench dismissing the L.P.A. filed by petitioners affirming the decision passed by writ court dated 17.11.2016 petitioners have preferred this review petition.

14. Counsel for the review petitioner as well as counsel for the State of Bihar have been heard at length.

15. A counter affidavit has been filed on behalf of State of Bihar. The recommendation of 6th pay revision committee was accepted by the State of Bihar and subsequent thereto



resolution No. 630 dated 21.01.2010 was issued by the Government of Bihar by which 6th pay revision was made effective for the employees of State Government from 01.01.2006 notionally and 01.04.2007 actually. The claim of the petitioners are that in their case also once the government has accepted their entitlement for pay scale the same is to be made effective notionally from 01.01.2006 and actually from 01.04.2007 and it cannot be made effective from date of issuance of notification i.e. 04.03.2014.

16. It has been submitted that against the recommendation of fitment committee there was fitment appellate committee and pay anomaly committee to consider grievances of State Government employees against the recommendation of pay revision committee and fitment appellate committee and pay anomaly committee after hearing such grievances modified the recommendation of pay revision committee report which was considered by the State Government and if accepted separate notification were issued by the Finance Department, Government of Bihar modifying the resolution No. 630 dated 21.01.2010 but was made effective from date of implementation of 6th pay revision committee recommendation i.e. notionally from 01.01.2006 and actually from 01.04.2007 and when the



State Government has accepted the claim and entitlement of petitioner of having pay scale as claimed by them and notification to the said effect has been issued by the department of Finance, Government of Bihar on 04.03.2014 then same has to be made effective notionally from 01.01.2006 and actually from 01.04.2007 otherwise it would be discriminatory.

17. After hearing the parties, this Court finds that once the Government has decided that petitioners are entitled for pay scale of pay band 2 grade pay 4800/- and after four years pay band 3 grade pay 5400/- it has to be made effective notionally from 01.01.2006 and actually from 01.04.2007 and any difference in date of implementation will be unreasonable and discriminatory and there cannot be two separate dates among employees from which 6th pay revision committee recommendation is made effective and it has to be same for all the employees once the State Government finds that petitioners are entitled for said pay scale which has to be made effective from date of implementation of 6th pay revision i.e. 01.01.2006 notionally and 01.04.2007 actually.

18. There cannot be two revised pay scales granted to petitioners in 6th pay revision one from 01.01.2006 to 04.03.2014 i.e. pay scale of band 2 grade pay 4600 and from



04.03.2014 to 01.01.2016 pay scale of band 2 grade pay 4800 and effect of notification dated 04.03.2014 issued by department of Finance would be that resolution No. 630 dated 21.01.2010 issued by department of Finance granting 6th pay revision, revised pay scale granted to petitioners stands amended/modified with effect from 01.01.2006 notionally and from 01.04.2007 actually.

19. It has been submitted by the counsel of petitioners that number of employees benefited by resolution dated 04.03.2014 issued by department of Finance are very few and there would be no excessive financial burden on the State exchequer if same is made effective notionally from 01.01.2006 and actually from 01.04.2007, as such apprehension of State is misplaced and unfounded.

20. After giving our anxious consideration to the issue raised in this review petition, we are of the view that review petition is liable to be allowed and accordingly the order dated 11.07.2017 passed in L.P.A. No. 2302 of 2016 is reviewed and allowed. Petitioners are entitled for 6th pay revision on the revised pay scale as notified by the department of Finance, Government of Bihar on 04.03.2014 and same is to be made effective notionally from 01.01.2006 and actually from



01.04.2007.

21. The review petition is allowed as a consequence order passed in LPA is reviewed and set aside and writ petition is allowed.

(Dr. Ravi Ranjan, J)

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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Transmission Date	N.A.

