IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7267 of 2010

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1. VIRENDRA KUNWAR S/O LATE BAUKU KUNWAR R/O VILL.- PARSAUDA, P.O. BERI, P.S. KUSHESHWAR STHAN, DISTT.- DARBHANGA
2. RAJESHWARI PRASAD SINGH S/O LATE JAGRANATH SINGH R/O VILL.+P.O.- ARTHU, P.S. DINARA, DISTT.- ROHTAS
3. AWADHESH KUMAR S/O LATE BABU RAM KESHRI R/O MOHALLA- MIRGANJ, P.O. ARA CHAUK, P.S. ARA (TOWN), DISTT.- BHOJPUR

... ... Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE SECRETARY, WATER RESOURCE DEPARTMENT, GOVT. OF BIHAR
2. THE DEPUTY SECRETARY, GOVT. OF BIHAR, WATER RESOURCE DEPARTMENT
3. THE CHIEF ENGINEER, WATER RESOURCE DEPARTMENT, DEHRI-ON-SONE, ROHTAS

... ... Respondent/s

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Appearance :

For the Petitioners : Mr. Kamal Nayan Chaubey, Sr. Advocate.
Mr. Ambuj Nayan Chaubey, Advocate.
Mr. Dineshwar Pandey, Advocate.
Ms. Ritu Priyadarshiny, Advocate.
Mr. Animesh Kumar, Advocate

For the Respondents : Mr. Anil Kr. Singh AC to GP 26.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
Date : 06-12-2018

Heard learned counsel for the petitioners and learned counsel for the State.

2. The petitioners who were appointed on different dates as Revenue Inspectors and who have since retired have approached this Court being aggrieved by the denial of the first ACP to them on the pay scale of Rs. 5000-8000/-, presumably on the basis/strength of the order dated 14.12.2009 passed by the Deputy Secretary, Water Resource Department, Government of Bihar.

3. Mr. K. N. Choubey, learned senior advocate appearing for the petitioners has submitted that the petitioners were appointed as Irrigation Revenue Inspectors and the next post of promotion for such inspectors is Circle Officer. He however clarifies that the petitioners never were promoted to the post of Circle Officer and have retired as Revenue Inspectors only. In any view of the matter, it has been argued that since they were entitled to the financial progression in accordance with ACP Rules, 2003, the only scale to which they were entitled was Rs. 5000-8000/- which is the lowest pay scale in the cadre of the Circle Officer.

4. It has further been submitted that some other Revenue Inspectors were given the financial progression in the scale of Rs. 5000-8000/- but later by the order impugned, the same was withdrawn and the pay scale which had to be given to them was reverted to the scale of Rs. 4000-6000/-. It has further been brought to the notice of this Court that those persons whose pay scales were reverted to a lower scale approached this Court vide C.W.J.C. No. 16319 of 2011 and C.W.J.C. No. 18490 of 2011 which was heard and decided by a composite order dated 23.02.2012. The aforesaid order has been brought on record by way of supplementary affidavit contained in Annexure-6 to the writ petition. The order dated

14.12.2009 which has been impugned in the present petition was set aside on the ground that reversion to a low pay scale was a definite prejudice to the petitioners in the aforesaid petitions and such order could not have been passed without giving them notice and an opportunity to explain their cause. Finding therefore the order with respect to those petitioners to be unsustainable, the same was set aside. However the Court reserved the right of the respondents to pass a fresh order in accordance with law.

5. Learned counsel for the respondents however has relied upon the same order for depriving the petitioners of the aforesaid higher scale of Rs. 5000-8000/- on the ground that the order impugned specified a cut off date 17.05.2005 and the petitioners were not entitled to the ACP as they had not completed 12 years of service before that cut off date.

6. Mr. Choubey, learned senior advocate has seriously objected to the arbitrary fixing of a cut off date.

7. This objection has been sought to be answered by the learned counsel for the State by stating that it is the prerogative of the State to fix a cut off date and the only requirement of law is that it should not be a arbitrary/whimsical fixation of date.

8. Learned counsel for the State has sought to explain the fixation of the aforesaid date by stating that it was the date when the entire service of the Revenue Employees was done away with and the employees were adjusted in other departments of the Government.

9. In any view of the matter since the petitioners are the only employees/Revenue Inspectors (since retired) who have not been paid the higher scale of Rs. 5000-8000/-, their cases deserve to be reconsidered by the concerned respondent.

9. The petitioners are therefore directed to make a representation in that regard with all the aforesaid facts along with a copy of this order to the concerned respondents within a period of four weeks from today. On receipt of such representation, the concerned respondents shall pass a reasoned order after taking into account every aspect, especially the fact that the order dated 23.02.2012 was earlier set aside with respect to some of the employees and shall pass a reasoned order in accordance with law within six weeks thereafter.

10. With the above directions/observations, the writ petition is disposed off.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2018
Transmission Date	