

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1699 of 2017

1. Ritesh Kumar Son of Sri Pradeep Kumar Singh, Resident of Village +Post- Goshaldih, P.S.- Surajpura, District- Rohtas, Presently Posted as Junior Engineer, Special Works Division, Gopalganj, Bihar Rajya Pul Nirman Nigam Limited, R.C.D.
2. Sunil Kumar Sinha Son of late Vishnudeo Prasad, Resident of Flat No. 103A, R.L. Vatika, Dwarika Nath Lane, Salimpur Ahra, P.S.- Gandhi Maidan , District- Patna, Presently Posted as Junior Engineer, Punpun Flood Protection Division, Water Resources Department, Govt. of Bihar, Patna.
3. Rajesh Kumar Son of Sri Shambhu Dayal Prasad, Resident of at P.O.- Bakhari Bazar, P.S.- Patahi, District- East Champaran, Presently Posted as Junior Engineer, Special Works Division, Bihar Rajya Pul Nirman Nigam Limited ,R.C.D. Patna.
4. Subodh Kumar Son of Sidheshwar Prasad Singh, Resident of at Khatri tola, Thana Road, P.S.- Jehanabad, District- Jehanabad, Presently posted as Junior Engineer, Road Construction Department, Road Division, Lakhisarai.
5. Dashratha Kumar Son of Sri Ram Bilash Chouhan, Resident of at Shiv Mandir Road, North Jaiprakash Nagar, P.S.- Rajeev Nagar, District- Patna, Presently Posted as Junior Engineer, Rural Works Department, Works Division, Daudnagar, Aurangabad.
6. Surya Kant Singh Son of Sri Ganga Prasad Singh, Resident of Village- Parsa, P.S. -Baheri, District- Samastipur, Presently working as Junior Engineer, Road Construction Department, Road Division, Gopalganj.
7. Deepak Prakash Son of Sri Gopal Sah Resident of Village & Post- Mandaidih, P.S.- Patepur, District- Vaishali, Presently working as Junior Engineer, in the office of the Superintending Engineer, Road Construction Department, Road Circle, Darbhanga.
8. Vikash Chandra Nigam Son of Subhash Chandra Nigam, Resident of Village- Ora Bagicha , P.S.- Dharhara, District- Munger, Presently working as Junior Engineer, Bihar Rajya Pul Nirman Nigam Limited, Road Construction Department, Works Division, Darbhanga.
9. Mosharraf Taj Son of Taj Mohammad, Resident of Village- Ganj Gaurihar, P.S.- Sakra, District- Muzaffarpur, Presently working as Junior Engineer, Road Construction Department, Road Division, Gopalganj.
10. Reena Kumari Wife of Sri Arun Kumar Singh, resident of near Nij Dham, C.D.A. Colony, P.S.- Shastri Nagar, District- Patna, Presently working as Junior Engineer, Patna City Road Disivion, Gulzarbagh, Patna.
11. Arun Kumar Son of late Bhubneshwar Prasad Gupta, Resident of Village & Post- Mananpur Bazar, P.S.- Itaun (Chanan), District- Lakhisarai, Presently working as Junior Engineer, Road Division-1, Gaya.
12. Shankar Kumar Tanti Son of Sri Jagdish Tanti, resident of C/o Smt. Medni Devi(Sharvan Kumar Tanti) Mohalla- Gosaitola (Behind Goshala Lane) P.O. , P.S. & District- Lakhisarai, presently working as Junior Engineer, Road Division No. 1, Gaya.
13. Ashok Kumar Son of Sri Banwari Prasad Yadav, Resident of Village- Sarwahna, P.O.- Modhopur, P.S.- Satgawan, District- Kodarma (Jharkhand), Presently working as Junior Engineer, Bihar Rajya Pul Nirman Nigam Limited, Road Construction, Works Division, Gaya.;
14. Pratima Kumari Wife of Sri Shivendra Kumar, Resident of In front of Mother



- Taresa Road, North Shrikrishnapuri , P.S. Shrikrishnapuri, District- Patna, Presently working as Junior Engineer, New Capital Road Division, Road Construction Department, Patna.
15. Manmohan Singh Son of late Dwarika Singh, Resident of Kichani, P.O. & P.S.- Harnaut, District- Nalanda, Presently working as Junior Engineer, Water Resources Department, Research and Training Division-3, Khagaul, Patna.
 16. Niraj Kumar Bharti Son of late Ram Chandra Ram, Resident of Patel Colony, Sandalpur More, P.S.- Kankarbagh, District- Patna, Presently working as Junior Engineer, Road Division, Dhoraiya.
 17. Nitish Chandra Singh Son of Ram Chandra Singh, Resident of Village- Sarhila, P.S.- Hathauri, District- Samastipur, Presently working as Junior Engineer, Irrigation Circle, Purnea.
 18. Naveen Kumar Son of Shiv Kumar Choudhary Resident of Village & P.O.- Jahangirpur Salkhani, P.S.- Mahua, District- Vaishali, Presently working as Junior Engineer, Local Area Engineering Organization, Works Division-1, Patna.
 19. Haribansh Ray Bachan Son of Sri Sukhdeo Verma, Resident of Lal Bahadur Shashtri Path, New Paharpur, Near Mother Taresa School, Police Colony, P.S.- Anishabad, District- Patna, Presently working as Junior Engineer, Bihar Rajya Pul Nirman Nigam Limited, Road Construction Department, Works Division, Nalanda.
 20. Nigamanand Mahto Son of late Ayodhya Mahto, Resident of Kisanpur, P.O.- Kiranpur, P.S.- Medni Chowki, District- Lakhisarai, Presently working as Junior Engineer, Daniyawan Section, Rural Works Department, Works Division, Patna.
 21. Shashi Kant Singh Son of Sri Kapil Deo Singh, Resident of Ishmailpur, P.O.- Bhewar, Shikariya, P.S. & District- Jehanabad, Presently working as Junior Engineer, Sahar Section- 1, Rural Works Department, Works Division, Piro.
 22. Baidyanath Kumar Son of Ram Binod Singh, Resident of Village & P.O.- Harail, P.S.- Mohiuddin Nagar, District- Samastipur, Presently working as Junior Engineer, Sandesh Section-1, Rural Works Department, Works Division, Piro.
 23. Ramesh Kumar Son of Ramautar Sah resident of at & P.O.- Sangi, P.S. - Phulparas, District- Madhubani, Presently working as Junior Engineer, Barun Section-2, Rural Works Department, Works Division, Aurangabad.
 24. Rakesh Kumar Son of late Chandrakant Prasad Singh Resident of at & P.O. - Dumri, P.S. - Barhiya, District- Lakhisarai, Presently working as Junior Engineer, Daudnagar Section-1, Rural Works Department, Works Division, Daudnagar.
 25. Anand Choudhari Son of late Shatrughna Choudhary Resident of Ramayan Shatrughna Bhawan, Mela Road, Lohianagar, Ward No. 9, P.O. & P.S. Supaul, District- Supaul, Presently working as Junior Engineer, Obra Section-1, Rural Works Department, Works Division, Daudnagar.
 26. Binod Kumar Son of Sri Ramakant Singh Resident of Village & Post- Manjosh, P.S.- Sikandra, District- Jamui. Presently Working as Junior Engineer, Kurtha Section-1, Rural Works Department, Works Division, Arwal.
 27. Anil Kumar Son of Sugamber Prasad Resident of Village- Sihuli, P.O.- Chandaura, P.S.- Wena, District- Nalanda, Presently working as Junior Engineer, Chewada Section, Rural Works Department, Works Division, Shekhpura.
 28. Umesh Kumar Mahto Son of Sri Shivjee Mahto, Resident of Village- Purshottampur West, P.O.- Chak Bidauliya, Raghapur, P.S.- Bibhutipur,



- District- Samastipur, Presently Working as Junior Engineer, Barbigha Section, Rural Works Department, Works Division, Shekhpura.
29. Mirtunjay Kumar Son of Sri Parmanand Yadav, Resident of Village- Mayaganj, P.O. & P.S.- Barari, District- Bhagalpur, Presently Working as Junior Engineer, Pipariya Section, Rural Works Department, Works Division, Lakhisarai.
 30. Ram Prawesh Kumar Son of Chamaklall Mahto, Resident of Avgil Rampur, P.O.- Paharpur, P.S.- Medni Chowki, District- Lakhisarai, Presently working as Junior Engineer, Jalalgarh Section, Rural Works Department, Works Division, Purnea.
 31. Jitendra Kumar Son of late Siyashran Roy, Resident of East of BRB College, Azad Nagar, Mohanpur, P.O., P.S. & District- Samastipur, Presently Working as Junior Engineer, Dighwara Section, Rural Works Department, Works Division, Sonpur.
 32. Md. Aslam Son of Md. Allauddin, Resident of By -Pass Road, Near Indra Picture, Mohalla- Yehyapur, P.O. P.S. & District- Shekhpura, Presently working as Junior Engineer, Wajirganj-2, Rural Works Department, Works Division, Gaya.
 33. Sushil Kumar Saini Son of Sri Satya Narain Prasad, Resident of Village- Machhagar Jagdish, P.O. & P.S.- Hathua, District- Gopalganj. Presently working as Junior Engineer, Raghapur, Section-1, Rural Works Department, Works Division, Mahnar.
 34. Ranjana Kumari Daughter of Sri Braj Kishore Prasad, Resident of C/o Anil Prasad, Anand Path, Mahatma Gandhi Nagar, Kanti Factory, Bahadurpur Housing Colony, P.S. Kankarbagh, District- Patna, Presently Working as Junior Engineer, Phulwari Section, Rural Works Department, Works Division, Danapur.
 35. Vijay Kumar Son of Jagdish Roy resident of at P.O.- Saidpur Dumra, P.S.- Patepur, District- Vaishali, Presently working as Junior Engineer, Local Area Engineering Organization, Works Division-1, Chapra.
 36. Deva Choudhari Son of Sri Bairagi Choudhari Resident of Village & Post- Chewara, District- Shekhpura, Presently working as Junior Engineer, Road Construction Department, Road Division, Bhagalpur.
 37. Amit Singh Son of Chandradeo Singh Resident of Village- Sundarpur, P.O.- Bahachauki, P.S.- Dharahara, District- Munger, Presently Working as Junior Engineer, Road Construction Department, Road Division, Bhagalpur.
 38. Ravi Ranjan Kumar Singh Son of Sri Upendra Narain Singh, Resident of Swami Vivekanand Nagar, P.O. - Mohan Eghu, P.S.- Muffassil, District- Begusarai, Presently working as Junior Engineer, Bikram Section-1, Rural Works Department, Works Division, Paliganj.
 39. Saket Ranjan Son of late Dargahi Mahto Resident of Village- Deodhara, P.O.- Amarpur, P.S.- Mednichauki, District- Lakhisarai, Presently working as Junior Engineer, Parwata, Section-2, Rural Works Department, Works Division, Gogri.
 40. Shashi Kumar Son of Sri Lalan Prasad, Resident of Village- Mahadeo Bigha, P.O.- Jamanganj, P.S.- Makhdumpur, District- Jehanabad, Presently working as Junior Engineer, Narpatganj Section-3, Rural Works Department, Works Division, Forbesganj.
 41. Jai Prakash Ram Son of Sri Bal Sharan Mochi, Resident of at & P.O.- Narma, P.S.- Hulasganj, District- Jehanabad, Presently Working as Junior Engineer, Bettiah Section, Rural Works Department, Works Division, Bettiah.
 42. Chandradeo Prasad Son of Balku Mochi, Resident of Sidhpur, P.O.- Adatchak, P.S. Dumaria, District- Gaya, Presently working as Junior Engineer, Khanpur



Section-1, Rural Works Department, Works Division, Samastipur.

43. Ajit Kumar Son of Sri Shivkant Prasad, Resident of Village- Jagdishpur, P.O- Malikpur, Via- Dighra, P.S. Pusa, District- Samastipur, Presently working as Junior Engineer, Jhajha Section, Rural Works Department, Works Division, Jhajha.
44. Chandan Kumar Son of Ishwar Chandra Roy, Resident of Magardahi, Ward No. 29, P.O.+P.S.+District- Samastipur, Presently working as Junior Engineer , Hasanpura Section-1, Rural Works Department, Works Division, Siwan.
45. Manoj Kumar Son of Sri Siyaram Singh, Resident of Village +Post- Bahorna, Via- Khesar, P.S. Belhar, District- Banka, Presently working as Junior Engineer, Road Division, Munger, Road Construction Department.
46. Sudhir kumar Son of late Ram Charitra Tanti, Resident of At & Post- Manjhaul (Bichhanna), P.S. Manjhaul, District- Begusarai, Presently working as Junior Engineer, Road Division, Saharsa, Road Construction Department.
47. Yashwant kumar Singh Son of Sukhdeo Narain Singh, Resident of Village- Bishanpura, P.O.- Gultaiganj, District- Saran, Presently working as Junior Engineer, Flood Control and Drainage Division, Ekangarsarai, Nalanda.
48. Ashwini Kumar Son of Shiv Balak Bhagat, Resident of Village- Pali, P.O.- Kashichak, District- Nawadah, Presently working as Junior Engineer, Flood Cell, Ist Floor, Irrigation Bhawan, Patna.
49. Sanjay Raj Son of Prabhat Kumar Sinha, Resident of Quarter No. F-08 (Old), B.S.E.B, Colony, P.S.- Shashtri Nagar, District- Patna, Presently working as Junior Engineer, Research and Training Division-1, Khagaul, Patna.
50. Kapil Muni Son of Sri Chandrika Prasad, Resident of Village- Gonpura, P.S.- Kadirganj, District- Patna, Presently working as Junior Engineer, Quality Control Division, Patna (Flood Control and Drainage).

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
4. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
5. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
6. The Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
7. The Principal Secretary, Minor Water Resources Department, Govt. of Bihar, Patna.
8. The Engineer-in-Chief, Water Resources Department, Govt. of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Adv.

Mr. Prashant Sinha, Adv.

For the Respondent/s : Mr. Amit Prakash G.A.-13

Mr. Ravi Bhardwaj, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

CAV JUDGMENT

Date: 14-08-2018



The present writ petition has been filed for quashing Memo No. 6087 dated 24.11.2016 issued by the Water Resources Department, Government of Bihar whereby the claim of the petitioners for stepping up of the pay to the level of their juniors, has been rejected. The petitioners have further prayed for grant of notional seniority without back wages w.e.f. the date of joining of their juniors as well as to grant salary to the petitioners at par with that of their juniors. Lastly, it has been prayed that consequently the period of notional seniority should be taken into account for the purpose of grant of benefit of Modified Assured Career Progression.

2. The brief facts of the case are that the Bihar State Staff Selection Commission (hereinafter referred to as “the Commission” published an advertisement bearing No. 1406 on 14.8.2006 for appointment of 2268 Junior Engineers (Civil). The selection process comprised of written examination. The petitioners and other candidates had applied pursuant to the aforesaid advertisement and their written examination was held, whereafter the Commission prepared a select list of 210 successful candidates, however, the same was challenged by the unsuccessful candidates by filing a writ petition bearing CWJC No. 885 of 2007. While the aforesaid writ petition was pending, 35 successful candidates were appointed as Junior Engineers in the Road Construction Department,



while 144 candidates were appointed in the Water Resources Department and 9 were appointed in the Public Health Engineering Department, thus total 188 successful candidates, out of 210 successful candidates were appointed in various departments. In the meantime, the learned Single Judge of this Court allowed the aforesaid writ petition and cancelled the examination as also the appointments made on the said posts. The said order of the learned Single Judge was challenged before the learned Division Bench in L.P.A. No. 70 of 2008 and the learned Division Bench by a judgment dated 1.2.2008 partly allowed the appeal and modified the order of the learned Single Judge holding that the model answers in respect of 45 questions out of 100, were wrong, hence the learned Division Bench declared that the entire examination need not be cancelled as there was no allegation of any corrupt motive or malpractice in regard to the other question papers, hence a fresh examination in Civil Engineering papers only was sufficient to rectify the defect and prevent injustice to any candidate. The Hon'ble Division Bench further held that while those appointed on the basis of the impugned selection shall be allowed to continue until publication of the fresh result and anyone of them, who failed to make the grade on the basis of the fresh examination shall be given a chance to appear in another examination to be conducted by the Commission. The aforesaid judgment dated



1.2.2008 was challenged before the Hon'ble Apex Court and the Hon'ble Apex Court by a judgment dated 13.3.2009, passed in Civil Appeal No. 2515-16 of 2013, reported in (2013) 4 SCC 690 [**Rajesh Kumar & Ors. Vs. The State of Bihar & Ors.**], allowed the said appeal and set aside the order passed by the learned Division Bench of the High Court and directed as follows:

“22.1. Answer scripts of candidates appearing in 'A' series of competition examination held pursuant to advertisement No. 1406 of 2006 shall be got re-evaluated on the basis of a correct key prepared on the basis of the report of Dr. (Prof.) C.N. Sinha and Prof. K.S.P. Singh and the observations made in the body of this order and a fresh merit list drawn up on that basis.

22.2. Candidates who figure in the merit list but have not been appointed shall be offered appointments in their favour. Such candidates would earn their seniority from the date the appellants were first appointed in accordance with their merit position but without any back wages or other benefit whatsoever.

22.3. In case writ petitioners-respondent nos. 6 to 18 also figure in the merit list after re-evaluation of the answer scripts, their appointments shall relate back to the date when the appellants were first appointed with continuity of service to them for purpose of seniority but without any back wages or other incidental benefits.

22.4. Such of the appellants as do not make the grade after re- evaluation shall not be ousted from service, but shall figure at the bottom of the list of selected candidates based on the first selection in terms of advertisement No.1406 of 2006 and the second selection held pursuant to advertisement No.1906 of 2006.



22.5. Needful shall be done by the respondents—State and the Staff Selection Commission expeditiously but not later than three months from the date a copy of this order is made available to them.”

3. In compliance of the judgment passed by the Hon’ble Apex Court, the answers sheets were re-evaluated and a fresh merit list was published wherein some candidates who had been declared successful earlier were found to be unsuccessful while some candidates who were declared unsuccessful earlier were found to have been successful. On account of the direction of the Hon’ble Apex Court to the effect that in case some candidates did not make their grade after re-evaluation should not be ousted from service, but should figure at the bottom of the list of the selected candidates as per selection in terms of advertisement no. 1406 of 2006 and second selection held pursuant to advertisement no. 1906 of 2006, fresh merit list was prepared, also considering the result of re-evaluation of answer sheets whereupon it transpired that certain candidates who had been declared successful initially had become junior to many candidates who were declared successful in the process of re-evaluation.

4. It is the submission of the writ petitioners that pursuant to the fresh merit list, the petitioners had joined in the respective departments whereafter, the Nodel Department i.e. the



Water Resources Department, Government of Bihar vide Memo dated 24.6.2016 had prepared a combined seniority list of the Junior Engineers appointed pursuant to advertisement no. 1406/ 2006 and 1906/2006 wherein the Junior Engineers, who were appointed prior to the petitioners pursuant to the initial result declared by the Commission and had become junior to the petitioners on account of the result declared after re-evaluation, were shown juniors to the petitioners, while the candidates, who were found to be unsuccessful after re-evaluation were placed at the bottom of the seniority list. In nutshell those junior Engineers who were appointed prior to the petitioners pursuant to the initial result published by the Commission, became junior in the combined seniority list on account of declaration of result by the Commission after re-evaluation as also in pursuance to the mandate of the judgment rendered by the Hon'ble Apex Court in the aforesaid civil appeals.

5. The learned Senior counsel appearing for the petitioners has submitted that after the implementation of the judgment of the Hon'ble Apex Court and declaration of fresh result by the Commission after re-evaluation, the junior Engineers, who were appointed prior to the petitioners, became junior to the petitioners and those candidates who were found to be unsuccessful upon re-evaluation were placed at the bottom of the seniority list. It is



submitted that the junior Engineers, pursuant to the initial result, were appointed in the year 2007 while the petitioners had joined in the year 2014, pursuant to the order of the Hon'ble Apex Court as also upon re-evaluation of the answer scripts and the Hon'ble Apex Court had clearly directed that the appointments of the candidates who figured in the merit list upon re-evaluation of the answer scripts would relate back to the date when the appellants were first appointed and would be granted continuity of service for the purpose of seniority and such candidates would earn seniority from the date the other candidates were initially appointed, hence the State Government is required to step up of the pay of the petitioners at par with those junior Engineers, who though had been appointed prior to the petitioners, but have been ranked as juniors to the petitioners in the combined seniority list. It is further submitted that the direction of the Hon'ble Apex Court, to relate back the appointments of the petitioners to the date when other candidates were first appointed, with continuity of service for the purposes of seniority, would also apply for calculating the period of service rendered for grant of benefits of Modified Assured Career progression. It is submitted that the period of services to be calculated for the purpose of seniority as per direction of the Hon'ble Apex Court would also be applicable for the purposes of calculation of the service period for grant of benefits of the Modified Assured Career



Progression.

6. Per contra, the learned counsel for the respondents has submitted that the Hon'ble Apex Court in its judgment dated 13.3.2013 had specifically stated that though the candidates such as the petitioners herein would earn their seniority from the date the other candidates were first appointed, prior to the passing of the judgment by the Hon'ble High Court, in accordance with their merit list, but the same was directed to be without any back wages or any other benefits/ incidental benefits whatsoever, hence the petitioners are only entitled for notional seniority which has already been given to them and they are not entitled to any other benefits whatsoever.

7. I have heard the learned counsel for the petitioners and gone through the materials on record. At the inception it would be relevant to reproduce paragraph no. 21 of the judgment rendered in the aforesaid Civil Appeal No. 2515-16 of 2013 herein below:-

“21. There is considerable merit in the submission of Mr. Rao. It goes without saying that the appellants were innocent parties who have not, in any manner, contributed to the preparation of the erroneous key or the distorted result. There is no mention of any fraud or malpractice against the appellants who have served the State for nearly seven years now. In the circumstances, while inter se merit position



may be relevant for the appellants, the ouster of the latter need not be an inevitable and inexorable consequence of such a re-evaluation. The re-evaluation process may additionally benefit those who have lost the hope of an appointment on the basis of a wrong key applied for evaluating the answer scripts. Such of those candidates as may be ultimately found to be entitled to issue of appointment letters on the basis of their merit shall benefit by such re-evaluation and shall pick up their appointments on that basis according to their inter se position on the merit list.”

8. It is apparent from the aforesaid observation of the Hon’ble Apex Court that though the petitioners herein and other such candidates were directed to be granted seniority from the date of first appointment of unsuccessful candidates/ other candidates, but the Hon’ble Apex Court had only directed to grant the petitioners and other similarly situated candidates continuity of service only for the purposes of seniority, but the said continuity of service, to be granted, was/is to be without any back wages or other benefits/ incidental benefits whatsoever, hence it is clear that the petitioners would be entitled to salary/ wages with effect from their date of actual appointment and accordingly, their pay would be fixed from year to year upon grant of annual increments and other such benefits as is



admissible under the law. In such view of the matter, specifically in view of the judgment of the Hon'ble Apex Court, the petitioners herein and other similarly situated employees cannot be granted the benefits of stepping up of their pay scale and bringing the same at par with that of their so-called juniors who had worked from a prior date i.e. from the date of their first appointment, which is prior to the judgment rendered by the Hon'ble Apex Court as also prior to the re-evaluation of the answer scripts. This Court is of the view that stepping up of the pay scale of the petitioners and other similarly situated employees would not only result in violation of the principles of fixation of pay scale and connected rules/ regulations but also would amount to violating the orders of the Hon'ble Apex Court.

9. Now, coming to the second aspect of the matter to the effect that the notional seniority granted to the petitioners w.e.f. the date of joining of their juniors be taken into account for the purposes of grant of the Modified Assured Career Progression, it is stated that the benefits of Modified Assured Career Progression/ Assured Career Progression are granted only for the purposes of compensating the employees who have stagnated on one post from several years, without being granted any promotion but have completed requisite number of years of actual service on the post, as provided under the scheme. However, in the instant case, the petitioners herein had not



physically and actually completed the numbers of years (10 years in the present case) of continuous service so as to entitle them for being granted the benefits of Assured Career Progression/ Modified Assured Career Progression scheme. Thus this Court finds that taking into account the date of joining (notional) of such petitioners i.e. the date on which their juniors have been first appointed, for the purposes of calculating the period of service undergone for granting the benefits of Modified Assured Career Progression/ Assured Career Progression scheme would not only be contrary to the provisions of Modified Assured Career Progression scheme but would also be contrary to the aforesaid judgment of the Hon’ble Apex Court inasmuch as firstly the petitioners have not completed 10 years of physical/ actual continuous service on the post on which they have been appointed and secondly the continuity of service, according to the Hon’ble Apex Court judgment, has to be granted to the petitioners only for the purposes of seniority but without any back wages or any other incidental benefits.

10. Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, the present writ petition is devoid of any merit, hence the same is dismissed.

BTiwary/-

AFR/NAFR	AFR
CAV DATE	16.05.2018
Uploading Date	14.08.2018
Transmission Date	

(Mohit Kumar Shah, J)

