

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7207 of 2010

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1. Bihar State Civil Court's Employees Association, District Unit- Muzaffarpur, through its District Secretary, Umesh Prasad.
 2. Umesh Prasad, S/O Sri Ramdeo Prasad, R/O Prahladpur, P.S.- Ghoswari, District-Patna at present working as Assistant, Civil Court in the judgeship of Muzaffarpur.
 3. Himanshu Shekhar Tiwary, S/O Late Sudhakar Tiwary, P.O.& P.S.- Adampur, District-Bhagalpur, at present Assistant at Civil Court in the Judgeship of Muzaffarpur.
 4. Balmiki Prasad Singh, S/O Sri Ram Kishun Prasad Singh, Assistant, Civil Court, in the judgeship of Nawada, Resident of Professor Colony Malgodam, Road, Nawada.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The Commissioner cum Secretary, Finance Department, Govt. of Bihar, Old Secretariat, Patna
3. The Commissioner Cum Secretary, Law (Judicial) Department, Govt. of Bihar, Patna.
4. The High Court of Judicature At Patna, through its Registrar General, Patna, Patna High Court, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava, Adv.

For the Respondent-State : Mr. Manish Kumar, AC to AAG-6

For the High Court : Mr. Satyabir Bharti, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-11-2018

Heard Mr. Abhinav Srivastava, learned counsel appearing for the petitioners, Mr. Manish Kumar, learned Assisting Counsel to Additional Advocate General No.6 for the State and Mr. Satyabir Bharti, learned counsel representing the High Court.

In the nature of the order which this Court proposes to pass, I would not delve deep into the inter-party contest. Suffice it to say



that the petitioners i.e. the Bihar State Civil Court Employees Association together with its member employees have chosen to move this Court in its extraordinary jurisdiction under Article 226 of the Constitution of India to seek pay parity in pay scale with those allowed to the Assistants in the Secretariat of the State Government or the High Court.

It is but obvious that since these Assistants posted in the Civil Courts are drawing salary at a scale lower than those allowed to the Assistants of the High Court and by those in the Secretariat of the State Government that such a writ petition was filed and the foundation for such claim lies in a judgment of a learned Single Judge in CWJC No.5156 of 1994, whereby an earlier rejection by the State Government to accept the request so made, was interfered with and this Court directed the Law Secretary to consider the claim of the employees in the background of the recommendation made by the High Court and pass fresh order. This judgment is dated 03.10.1997.

Not acted upon that a contempt application was filed bearing MJC No.1794 of 1998. A statement was given by the petitioners themselves regarding pendency of a matter before the Supreme Court arising from Writ Petition (Civil) No.1022 of 1989 wherein one of the issues being deliberated upon was, regarding the



scale admissible to the Judicial Officers and the staff posted in the Civil Courts. Since it is under the order of the Supreme Court that a single member Judicial Commission was constituted known as “Hon’ble Mr. Justice Jagannath Shetty Commission’ (hereinafter referred to as the ‘Shetty Commission’) and since as per the admission of the petitioners themselves the matter relating to scale of pay, came up for consideration before the ‘Shetty Commission’ so constituted that the learned Single Judge on consideration of the issue raised in the contempt application permitted the petitioners to withdraw the contempt application to move the ‘Shetty Commission’. The matter did progress further but does not satisfy the petitioners and hence this writ petition.

Having heard learned counsel for the parties, on the issue, I am persuaded to take notice of the counter affidavit filed on behalf of High Court and my attention was drawn by Mr. Satyabir Bharti, learned counsel appearing for the High Court, to the statements present at paragraphs 17 to 20 thereof which, in my opinion, would attach finality to the issue raised herein because these statements go uncontested. For the sake of convenience, I am persuaded to reproduce paragraphs 17 to 20 of the counter affidavit of the High Court which specifically deals with the grievance so raised by the petitioners herein and informs that the ‘Shetty Commission’ having noted the grievance raised by the employees of the Civil Courts across the country, determined the pay



scale structure admissible to Clerks/Bench Clerks in the Civil Courts, which recommendation of the said Commission was considered by a 3-Member Committee of this Court, was accepted and forwarded to the State Government for its implementation. The State Government on its part has issued sanction orders dated 30.10.2008, 10.11.2008, 14.02.2013 and 12.06.2013, the details of which can be found in paragraph 20 of the counter affidavit. Paragraphs 17 to 20 of the counter affidavit of the High Court runs as under:

“17. That the Shetty Commission constituted in terms of the Hon’ble Supreme Court’s order recommended three grades of Clerks for the Civil Courts and the recommendation of the Shetty Commission in so far as Clerk/Bench Clerks of the Civil Courts was as follows:

Sl.No.	Post	Recommendation/Sanction Order
1.	Clerk Grade I	5500-9000
2.	Clerk Grade-II	5000-8000
3.	Clerk Grade III	4000-6000
4.	Seristedar	8000-13500

18. That on receipt of the recommendation of Shetty Commission, a Committee of three Hon’ble Judges of the Hon’ble Patna High Court was constituted and having considered the recommendations, the Hon’ble Committee recorded its recommendations. The recommendations and decision of the Hon’ble Committee was forwarded to the State Govt. for its implementation. The State Govt. in light of the decision of the Hon’ble three member committee issued certain sanction orders vide letter No.9118 dated 30.10.2008, letter No.9276 dated 10.11.2008, 1519 dated 14.2.2013, 4389 dated 12.6.2013.

19. That in the meantime, on receipt of order of Hon’ble Supreme Court dated 7.10.2009 in W.P. (C) No.1022/1989 with respect to implementation of the recommendations of the Shetty Commission, the matter



was registered in the Judicial side of this Court as a writ petition for proper monitoring being registered as C.W.J.C. No.14425 of 2009 (In the matter of representation by the Bihar State Civil Courts Employees Association, Patna vs. The State of Bihar & Ors).

20. That thus in light of recommendation of Shetty Commission as also as per decision of the three member committee of the Hon’ble Patna High Court the below noted pay scale has been approved by the State Government for the Clerks and Stenographers of the Civil Court by its aforesaid referred orders vide letter No.9118 dated 30.10.2008, letter No.9276 dated 10.11.2008, 1519 dated 14.2.2013, 4389 dated 12.6.2013:

Name of the Post	Pay Scale	Remarks
Bench Clerk Gr.I	5500-175-9000	Approved by the State Govt. as per recommendation but with condition of proportional percentage of posts, determination of time period for promotion and formation of cadre Rules.
Bench Clerk Gr.II	5000-150-8000	
Bench Clerk Gr. III	4000-100-6000	
The pay scale of D.J.'s Sheristedar has been sanctioned as Rs.8000-13500		
Stenographer Gr.I	5500-9000	With condition that educational qualification recommended by Shetty Commission shall be applicable for the proportional percentage of Post determination of time period for promotion and formation of cadre Rules. Relaxation shall not be made in qualification for apptt. for any person.
Stenographer Gr.II	5000-8000	
Stenographer Gr.III	4000-6000	

The State Govt. has also decided to implement the above said pay-scale and allowance w.e.f. 1.4.2003. One increment has also been sanctioned to all the Class III and Class IV employees w.e.f. 1.4.2003 of the Civil Court who were in service till 31.3.2003 and thereafter their pay will be refixed.”

Despite the decision so taken yet some issues remained



with the employees in the Civil Courts for which they moved the Supreme Court again through an interlocutory application bearing I.A. No.245 of 2009, a copy of which is at Annexure-5, with a prayer to direct the State Government to review its order dated 30.10.2008. The interlocutory application was listed before the Supreme Court along with several other interlocutory applications and vide order passed on 07.10.2009 the Supreme Court taking note of the position and the complaint that some of the States and Union Territories had not yet implemented the recommendation of the 'Shetty Commission' in its letter and spirit as well as other grievances that subsisted, gave liberty to the aggrieved to move the concerned High Courts on the judicial/administrative side and the High Court was accordingly directed to dispose of the same.

According to Mr. Srivastava, learned counsel appearing for the petitioners, the issues raised by the employees in the interlocutory application yet subsists.

I am afraid to note that even if Mr. Srivastava is espousing such grievance of the petitioners and may have his reasons therefor but this grievance does not find mention in the relief so prayed by the petitioners in the writ petition which was filed after the order was passed and the liberty granted by the Supreme Court. I also take note of the fact that despite the stand taken by the High Court



regarding the implementation of the recommendation of the ‘Shetty Commission’ in letter and spirit as is evident from the paragraphs quoted hereinabove, this position has not been controverted by the employees of the Civil Courts by filing rejoinder thereto or any interlocutory application.

In that view of the matter, I am persuaded to accept the stand of the High Court that the order of the Supreme Court directing the High Courts to implement the recommendation of the ‘Shetty Commission’ in its letter and spirit have been given effect to and in absence of any contest to such position, I am not persuaded to grant any further indulgence to the issue raised.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/Anjula

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15-12-2018
Transmission Date	NA

