

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.312 of 2016

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1. Manju Kumari Mishra w/o Maheshwar Pathak resident of Hirannad Sah Ki Gali, P.S. - Patna City, District - Patna, At present posted as Assistant Teacher, P.N.A.S. High School, Naya Tola, Patna.
 2. Krishna Kumar Singh son of Gopal Prasad Singh resident of village - Nejuara, P.O. - Gidhaura, District - Munger, At present Assistant Teacher, High School, Jamui, District - Jamui.
 3. Ramanand Rai son of Damodar Yadav resident of village - Madhur, P.O. Tetrahi, District - Samastipur, At present Assistant Teacher High School, Muktapur, District - Samastipur.
 4. Punam Kumari D/o Awadh Kishore Das resident of Mohalla - Purandarpur, New Area, P.O. - G.P.O., Patna, District - Patna, At present Assistant Teacher, High School, Phulwarisharif, District - Patna.
 5. Niranjan Singh S/o Bhuneshwar Singh resident of village - Balthara, P.O. - Harchandi, P.S. + District - Bhagalpur.
 6. Arjun Sharma son of Laldeo Sharma resident of village - Kali, P.O. - Newatik Chowk, District - Patna, At present Assistant Teacher, Vir Oiyara, District - Patna.
 7. Ravi Sunderam son of Nand Kishor Sinha resident of village - Basauli, P.O. - Vishnupur Standha, District - Vaishali, At present posted as Assistant Teacher, G.A. High School, Hajipur, District - Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna.
2. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
3. The Director, Department of Secondary Education, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate

For the Respondent/s : Mr. GA5- JAI SHANKAR BARNAWAL

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 26-03-2018

Heard learned counsel for the petitioners and learned
counsel appearing on behalf of the State.

In this writ application, the petitioners are claiming that
they are entitled to the benefits of pension scheme under the rule



applicable prior to 1.9.2005. Learned counsel for the petitioners submits that selection process was undertaken by the respondents in the year 1991 but the respondents have ignored the case of the petitioners who belongs to physically challenged category. The matter was settled in the High Court and the High Court directed consideration of their cases in terms of decision contained in Annexure-9 and after the order contained in Annexure-9, i.e., C.W.J.C. No.8731 of 1999 dated 5.8.2004, the respondents considered the case of the petitioners for appointment against the physically handicapped category.

Learned counsel appearing on behalf of the respondents submits that the petitioners were appointed out of separate select list prepared by the respondents for appointment against the physically handicapped quota and they have been appointed after the cut off date dated 5.9.2005. Learned counsel for the petitioners submits that for the lapse of respondents responsible for delaying the appointment petitioners cannot suffer, as respondents cannot take advantage of their own wrong and deny the benefit of Old Pension Scheme. Petitioners have been appointed. Pursuant to Advertisement No.2 of 1991, at the time of selection process, the existing pension was different which was amended only with effect from 5.9.2005 and as such the Court does not find merit in the contention of the respondents that since the petitioners were appointed though pursuant to the



Advertisement No.2 of 1991 and on the direction of this Court in C.W.J.C. No.8731 of 1999 dated 5.8.2004, they are not entitled to benefits under Old Pension Scheme.

Accordingly, the writ petition is allowed. Respondents are directed to extend the benefits of Old Pension Schemes to the petitioners appointed pursuant to Advertisement No.2 of 1991 and under order of High Court as contained in Annexure-9 dated 5.8.2004.

Entire exercise in the matter of admitting petitioners in Old Pension Scheme may be taken by the respondents within a maximum period of three months from the date of receipt/production of a copy of this order. It goes without saying that judgment of this Court in Annexure-14 in similar circumstance shall also apply in this case and petitioners would be entitled to all the benefits on appointment pursuant to Advertisement No.2 of 1991 treating their case as appointees covered by Old Pension Scheme.

(Anil Kumar Upadhyay, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30-03-2018
Transmission Date	

