

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.252 of 2018**

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1. Pankaj Kumar, Son of Late Harinarayan Prasad Sharma, Resident of Village- Sultanpur, P.S.- Mokama, District- Patna.
  2. Rashmi Suchita Bhagat, Daughter of Late Subhash Bhagat, Resident of Village- Jairagi, P.S.- Dumri, District- Gumla (Jharkhand).
  3. Prem Vikas, Son of Late Kapildeo Paswan, Resident of Village- Noorjamapur, P.S.- Balia, District- Begusarai.
  4. Md. Chand Alam, Son of Late Murtaza, Resident of Village- Ismailpur, P.S.- Olapur Gangaur, District- Khagaria.
  5. Rajeev Kumar, Son of Late Yugal Kishore Jha, Resident of Village- Temtha, P.S.- Parbatta, District- Khagaria.
  6. Bipin Kumar, Son of Late Shashi Kumar Verma, Resident of Mohalla- Chitragupt Nagar, P.S.- Chitragupt Nagar, District- Khagaria.
  7. Randhir Kumar, Son of Late Rajendra Prasad Yadav, Resident of Village- Mobarakpur, P.S.- Salakhua, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Main Secretariat, Patna.
2. Principal Secretary, General Administration Department, Government of Bihar, Main Secretariat.
3. Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Main Secretariat, Patna.
4. Principal Secretary, Department of Finance, Government of Bihar, Main Secretariat, Patna.
5. District Magistrate, Khagaria.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Kishore Kumar Thakur, Adv.<br>Mr. Braj Kishore Singh, Adv.<br>Mr. Rajesh Kumar, Adv. |
| For the Respondent/s | : | Mr. Sheo Shankar Prasad-SC8                                                              |

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL JUDGMENT**

**Date : 03-10-2018**

Heard learned counsel for the parties.

In this case, the process of appointment of the all the petitioners has been initiated after de-merger that took place on 20.12.2000 and, on that account, the petitioners have been placed



in the scale of 3050-4500 and having claimed that they should be given pay scale of Rs. 4000-6000.

Merger and de-merger have taken place on different dates, the merger of L.D.C. and U.D.C. took place vide letter dated 7.4.1977. Again de-merger has taken place on 20.12.2000 and, in that process, two grades have been created such as L.D.C. and U.D.C. The petitioners have entered into service on compassionate ground on the ground of death of their respective fathers, they were selected and appointed admittedly after de-merger has taken place.

Learned counsel for the petitioners submits that his juniors are getting the pay-scale of Rs. 4000-6000 whereas they are being given the scale of Rs. 3050-4500. It is nothing but, discrimination and placed reliance on the order passed by the Division Bench in the case of Avinash Kumar Chakerwarty & Ors. Vs. The State of Bihar & Ors. (L.P.A. No. 167 of 2016). There the question also arose about the entitlement of pay-scale of Rs. 3050-4500 and the Court has settled four examples, one was the person appointed through B.P.S.C., the advertisement was taken place before the de-merger but, the actual appointment was made after the event of de-merger and, on that account, the newly appointed persons were given the pay-scale of Rs. 3050-4500. Being



aggrieved by the action, they approached this Court in C.W.J.C. No. 13577 of 2006 and the Court has taken a view that they have applied against the vacancy which has been notified before the de-merger and the scale was given of Rs. 4000-6000 and, thereafter, they have participated, now the State cannot fix the salary in the scale of Rs. 3050-4500 and, on that account, the person was granted the scale of Rs. 4000-6000.

Another example has been taken of those persons who were appointed on compassionate ground, their initiation of selection started before the de-merger but, finally, the appointment was made after de-merger. The Court placed reliance on the judgment passed in C.W.J.C. No. 13577 of 2006 having stated that the process of selection started before de-merger but, the Court further considered those persons who have entered into the service by way of rehabilitation scheme of retrench employee in the year 2005 and 2006. The Court has held that even a fresh appointee in the year 2005-06 has been granted the pay-scale of Rs. 4000-6000 then, in that circumstances, Avinash Kumar Chakerwarty and others cannot be deprived of the pay-scale of Rs. 4000-6000, inasmuch as, the Government has also issued a circular vide letter no. 11.3.2013 stipulating that if a senior is getting the lower pay, in



that circumstances, the pay-scale of senior will be stepped up to the level of his junior.

The State has taken a plea that as because their appointment has taken place after de-merger, so they will not get the benefit of pay scale of Rs. 4000-6000.

In the present case, the petitioner no.1 entered into service on 28.2.2002, petitioner no.2 on 5.8.2003, petitioner nos. 3 & 7 on 21.6.2001, petitioner no.4 on 7.6.2004, petitioner no.5 on 31.12.2001 and the petitioner no.6 on 7.6.2004. The authority will examine the case of the petitioners and if any person junior to them have been granted the pay-scale of Rs. 4000-6000, the petitioners will also be granted the same pay protection that has been given to the juniors within a period of four months from the date of receipt/production of a copy of this order.

With the aforementioned observation, this writ application is disposed of.

**(Shivaji Pandey, J)**

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 25.10.2018 |
| Transmission Date |            |

