

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12919 of 2013

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1. Niranjan Kumar S/O Late Rambali Singh Resident Of Vill.- Madhopur, P.S.- Janipur, Distt.- Patna
 2. Satya Narain Prasad S/O Sri Brijnandan Prasad Resident Of Vill.- Bheekhachak, P.S.- Gardanibagh, Distt.- Patna-2.
 3. Anup Narain Prasad S/O Late Ganauri Prasad Resident Of Vill.- Sita Vigha, P.S.- Parbalpur, Distt.- Nalanda
 4. Sunil Kumar S/O Late Jugeshwar Paswan Resident Of Vill.- Hasanpura, P.O.- Beur,(Anishabad), Distt.- Patna
 5. Birendra Kumar Choudhary S/O Late Ganesh Chaudhary Resident Of Vill.- Ramdutt Patty, P.S.- Supaul, Distt.- Supaul
 6. Birchand Singh S/O Sri Kamleshwar Singh Resident Of Vill.- Jalapur, P.O.+P.S.- Lalganj, Distt.- Vaishali
 7. Renu Kumari W/O Sri Upendra Kumar Chaudhary Resident Of Vill.- Ramdutt Patty, P.S.- Supaul, Distt.- Supaul
- **Petitioners**

Versus

1. The State Of Bihar Through The Agriculture Production Commissioner, Vikas Bhawan, Patna
 2. The Agriculture Production Commissioner, Vikas Bhawan, Patna
 3. The Secretary, Finance Department, Government Of Bihar, Secretariat Building, Patna
 4. The Director Agriculture, Vikas Bhawan, Bihar, Patna
 5. The Deputy Director (Administration), Vikas Bhawan, Patna
 6. The Deputy Director (Seed Analysis), Bihar, Patna, Mithapur Agriculture Farm, Patna
 7. The Assistant Seed Testing Officer, Mushari, Muzaffarpur, Bihar
 8. Binod Prasad, aged about 58 years S/o late Nanhe Pandit R/o- Vill +P.O.- Raikeshpur, P.S. Atri , Distt. Gaya
- **Respondents**
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Appearance :

For the Petitioners : Mr. S.P.Tiwari, Advocate
: Mr. Anand Tiwari, Advocate
: Mr. Mahesh Kumar, Advocate
For the State : Mr. Sanjay Prasad, AC to AAG 4
For intervenor : Mr. Mukesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 25-07-2018

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

2. The writ petitioners have approached this Court being aggrieved by the decision of the respondent authorities to stop paying them their emoluments for the post of Laboratory



Assistant. Decision has been taken on basis of the earlier decisions of the Director, Agriculture, Bihar (respondent no.4) under memo no. 302 dated 19.2.2013 and the Deputy Director (Seed Analysis), Bihar (respondent no.6) under Letter no. 94 dated 27.2.2013 to the extent that the petitioners were not promoted as Laboratory Assistant and as such they shall not be paid emoluments of Laboratory Assistant. As per the said decisions, petitioners were to receive their emoluments as prior to issuance of office order dated 18.3.2013 (Annexure 20) for the post of as Laboratory Attendant. Said office order dated 18.3.2013 (Annexure 20), issued by the Assistant Seed Testing Officer, Mushari, Muzaffarpur does not effect any recovery.

3. It appears that the respondents have not directed recovery recognizing the entitlement of the petitioners to emoluments received for post of Laboratory Assistant till issuance of aforesaid letter. Said decision is in accordance with Rule 58 of the Bihar Service Code read with Rule 103 thereof.

4. Entitlement of the petitioners after issuance of office order dated 18.03.2013 has been seriously disputed by the intervenor by filing I.A.No.3521 of 2017 by saying that on his filing contempt application, the Director, Agriculture issued Memo No. 302 dated 19.2.2013. He submits that since the petitioners were posted as Laboratory Assistant ignoring his due position in the



seniority list and without observing the roster and other formalities, petitioners were not entitled to the emoluments or benefits attached to the post of Laboratory Assistant.

5. Since respondents have allowed the emoluments till issuance of office order dated 18.3.2013 (Annexure 20) as noticed above, the issue remains that whether even after letter dated 18.3.2013, respondents continued to take work from the petitioners as Laboratory Assistant or not.

6. Learned counsel for the petitioners, relying upon a Annual Confidential Report (herein after referred to as 'the ACR') dated 30.9.2016, submitted in respect of one of the petitioners, namely, Birchand Singh which is at Annexure 24 A of the supplementary affidavit, submits that since in the ACR he has been shown as Laboratory Assistant, this Court may consider him to be in continuous service to the post of laboratory Assistant even after issuance of office order dated 18.3.2013 (Annexure 20).

7. The issue whether the petitioners have worked as Laboratory Assistant till date is not an issue to be decided on the basis of the ACR dated 30.9.2016. The issue, therefore, is for the Director, Agriculture, Bihar (respondent no.4) to take a decision whether petitioners have continued to work as Laboratory Assistant even after issuance of office order dated 18.03.2013. If the respondents have continued to take work of the post of Laboratory



Assistant from petitioners even thereafter, and since earlier they have been granted higher pay of the post of Laboratory Assistant for the period during which they have worked on the post they would again be entitled for the same keeping in view provisions of Rule 58 of the Bihar Service Code read with section 103 thereof.

8. Petitioners’ counsel submits that the petitioners will submit details of their posting after issuance of office order dated 18.3.2013 (Annexure 20) showing them to be working as Laboratory Assistant, for consideration in light of the observations of this Court with reference to befits granted earlier.

9. Let the petitioners submit their application for consideration by the Director, Agriculture (respondent no.4) within a period of four weeks from today. In the event, such application is filed, respondent no.4 shall be obliged to consider petitioners’ claim and dispose of the same within a period of eight weeks thereafter.

10. The writ petition is disposed of.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	7.8.2018
Transmission Date	NA

