

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23133 of 2013

- =====
1. Satish Kumar S/O Ashok Kumar Resident Of Village + P.S. Narhat, Distt. - Nawada, At Present Posted At The Post Of Clerk, District General Section, Nawada
 2. Ranjit Kumar S/O Shyam Sundar Prasad Singh Resident Of Village - Usri, P.S. Pakriwarawan, Distt. - Nawada, At Present Posted At The Post Of Clerk, District - Nazarat Section, Nawada
 3. Gopal Prasad S/O Late Lakhan Prasad Resident Of Village - Khushialbiga, P.S. Narhat, Distt. - Nawada, At Present Posted At The Post Of District Nilam Patra Section Nawada
 4. Sanjay Kr. Yadav S/O Late Dharmdeo Prasad Yadav Resident Of Village - Kamla Kund, P.S. Gopalganj, Distt. - Bhagalpur, At Present Posted At The Post Of District Vikash Section, Nawada
 5. Mithilesh Kumar S/O Late Kedar Prasad Singh Resident Of Village + Post - Chaukiya, P.S. Sirdala, Distt. - Nawada At Present Posted At The Post Of Clerk Sub Divisional Office, Nawada
 6. Harendra Kumar S/O Sri Munishwar Prasad Resident Of Village - Deowra, P.S. Narhat, Distt. - Nawada At Present Posted At The Post Asst. Circle Office, Nardiganj, Nawada
 7. Ajay Kumar S/O Sri Ishwar Lal Resident Of Punam Ready Made, Rajauli, Distt. - Nawada At Present Posted At The Post Of Clerk, Sub Divisional Office, Rajauli, Nawada
 8. Arbind Kumar S/O Late Shila Nath Prasad Resident Of Village + Post Methwalia, Distt. - Chapra, At Present Posted At The Post Of Circle Office, Nardiganj, Nawada

.... Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary Government Of Bihar, Patna
2. The Secretary, Department Of Personnel And Administrative Reforms Government Of Bihar, Patna
3. The Secretary Department Of Finance, Government Of Bihar, Patna
4. The District Magistrate, Nawada
5. The District Provident Fund Officer, Nawada

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Advocate
For the State : Mr. J.K. Roy -1, SC-13

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 04-07-2018



Heard learned counsel for the petitioners and the respondent State.

2. Pursuant to an advertisement for the post of Assistant/clerk and equivalent posts the petitioners along with many others had applied for appointment. The BPSC under memo no. 1053 dated 16.01.2003 (Annexure 3) made a recommendation for appointment of the petitioners along with others. Pursuant to the said recommendation all the petitioners were to be appointed as Panchayat Sewak. There appears to have been some confusion amongst the respondents whether the petitioners pursuant to their recommendation for appointment on Grade III post could be appointed as Panchayat Sewak or not. The issue was agitated by the petitioners in C.W.J.C. No. 414 of 2005. During pendency of the said proceedings the appointment order dated 17.03.2008 was issued in favour of the petitioners appointing them as Panchayat Sewak in the District of Nawada.

3. Considering the aforesaid development during pendency of the writ proceedings the writ petition was disposed off as infructuous by recording that “primary relief prayed for by the petitioners have already been allowed”.

4. It is the other/subsidiary relief which were claimed for by



the petitioners in those proceedings regarding seniority and other admissible benefits which the petitioners are claiming in the instant proceedings. It is submitted that since all others who were recommended pursuant to the selection process under Advertisement no. 41/98 are governed by the old pension rules the petitioners should also be governed by the old pension rules and coming into force of the new pension scheme in August, 2005 will have no bearing on the petitioners' claim for pension under the old scheme since they were not responsible for delay in issuance of their appointment letters.

5. It is also submitted that there are many others in whose cases the recommendations have been made prior to coming into force of the new pension scheme in 2005 and the appointment orders have not been issued subsequent thereafter. But the respondents under the orders of this Court have allowed the benefits under the old pension scheme considering the fact that they were not responsible for delay in issuance of appointment letter.

6. Counsel for the petitioners submits that since subsidiary relief have been left open under the order dated 30.08.2010 passed in C.W.J.C. No. 10623 of 2005 he would approach the respondent District Magistrate, Nawada for subsidiary relief with respect to grant of benefits under the old pension scheme that prevailed prior to



August, 2005 by making a detailed representation within a period of four weeks from today.

7. If such representation is filed, the respondent authorities would be obliged to consider the same and dispose it of by a reasoned and speaking order within a period of eight weeks thereafter.

8. The writ petition is disposed off.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

