

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17982 of 2017

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1. Dharmveer Chaudhary, son of Ramadhar Chaudhary, resident of Village Bara Chaudhary, resident of Village Bara Bariarpur, P.S. Chatauni, Dist. East Champaran, Motihari.
 2. Indu Bhushan Chaudhary, son of Jagannath Chaudhary, resident of Village Dhirachak, P.S. Gardanibagh, Dist. Patna.
 3. Arvind Kumar, son of Rampal Ram, resident of Village Chesi, P.S. Naubatpur, Dist. Patna.

... .. Petitioner/s

Versus

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

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kishore Kumar Thakur, Adv. Mr. Rajesh Kumar, Adv.
For the Respondent/s	:	Mr. Raghwendra Kumar -SC22 Mr. Satya Prakash, AC to SC22

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 10-09-2018

Heard learned counsel for the parties.

In this case, the petitioners are seeking relief of mandamus for granting pay-scale of Rs. 4000-6000 in the grade pay of Rs. 2400 as they have also been appointed as Lower Division Clerk through Staff Selection Commission and those who have been appointed through Public Service Commission having been granted the pay-scale of Rs. 4000-6000 in the grade pay of Rs. 2400 i.e. on the basis of judgment passed in C.W.J.C. No. 13577 of 2006. The petitioners have also placed reliance on the judgment passed in L.P.A. No. 167 of 2016 wherein certain



persons have been granted the benefit of identical pay-scale on the ground of equal pay for equal work.

The petitioners have been appointed against the advertisement published after bifurcation of the cadre as L.D.C. and U.D.C. and those who have been appointed through Public Service Commission, their advertisement was made before demerger of the candidates and, when they have joined, they were granted pay-scale below Rs. 4000-6000 and grade pay Rs. 2400 which has caused heart burning to them, approached this Court in C.W.J.C. No. 13577 of 2006 and they have succeeded on the plea that the advertisement had taken place in the year 1998 and, in the advertisement, the scale of pay was given as 4000-6000, under that impression, they have applied for the said post and, as such, if an event of demerger has taken place, will not affect the pay-scale of these persons who applied against that advertisement. The counsel has further submitted that certain persons who were retrenched from the Adult Education were also engaged, have also been granted the scale of pay of Rs. 4000-6000 and grade pay Rs. 2400 by way of fresh appointment. In that view of the matter, the petitioners cannot be indiscriminated by granting lower pay-scale, inasmuch as, learned counsel for the petitioners has drawn attention of this Court towards the letter of the Additional



Secretary dated 11.3.2013 and 30.7.2013 which shows that the Government has taken a policy decision that if junior has been paid higher pay-scale to the senior, in such circumstances, the scale of pay of the senior will also be stepped up at par with the juniors.

Learned counsel for the petitioners has also submitted that the case of the petitioners have been referred to the Collector, East Champaran, Motihari for granting relief of step up of the salary as the juniors are getting the higher pay-scale than the petitioners.

Let the petitioners should file an appropriate application before the authority concerned attaching the copy of this order and the authority will examine, if any person, junior to the petitioners, has been granted higher pay-scale, in such circumstances, in terms of the circular as well as under the service jurisprudence, the senior cannot get the lower pay-scale than to the junior.

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

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.09.2018
Transmission Date	

