

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 15905 of 2016

1. Sanjay Kumar son of late Parmeshwar Lal resident of village Post P.S. - Bakhtiyarpur, District - Patna, presently working as Upper Division Clerk in the office of Executive Engineer, Research and Training Division - 1, Water Resources Department, Khagaul, Patna.
2. Ajay Kumar Singh son of late Daya Shankar Singh resident of Mohalla - Sarvodaya Nagar, P.S. Shastrinagar, District - Patna, presently working as Upper Division Clerk in the office of Executive Engineer, Research and Training Division - 1, Water Resources Department, Khagaul, Patna.
3. Anil Kumar son of late Sri Krishna resident of House No. 250/M.I.G., Lohiyanagar, Kankarbagh, Patna, presently working as Correspondence Clerk in the office of Executive Engineer, Research and Training Division - 2, Water Resources Department, Khagaul, Patna.
4. Akhilesh Kumar son of late Jagalal Mehta resident of Mohalla - Karbigahiya, Post - G.P.O., P.S. - Jakkanpur, District - Patna, presently working as Correspondence Clerk in the office of Executive Engineer, Research and Training Division - 2, Water Resources Department, Khagaul, Patna.
5. Ashok Kumar son of late Sahjanand Ray resident of Mohalla - Chhoti Badalpura, P.S. - Khagaul, District - Patna, presently working as Typist in the office of Executive Engineer, Research and Training Division - 2, Water Resources Department, Khagaul, Patna.
6. Sushma Kumari Sinha wife of Dinesh Prasad Singh resident of Mohalla - Anandpuri, P.S.- Khagaul, District - Patna, presently working as Upper Division Clerk in the office of Executive Engineer, Research and Training Division - 1, Water Resources Department, Khagaul, Patna.
7. Nazara Yasmin wife of Ishteyaque Ahmed resident of Mohalla - Chhoti Khagaul, P.S. - Khagaul, District - Patna, presently working as Typist in the office of Executive Engineer, Research and Training Division - 1, Water Resources Department, Khagaul, Patna.
8. Srikant son of late Ram Kewal Prasad R/o Mohalla - Tej Pratap Nagar, P.S. - Beur, Dist - Patna at present posted as upper Division Clerk in the office of Superintending Engineer, Quality Control Sicha Srijan Circle, Patna.
9. Vinod Kumar Pandey son of late Shiv Prasan Pandey resident of Mohalla - New Punaichak, Hanuman Nagar, P.S. Shastri Nagar, District - Patna presently working as Correspondence Clerk in the office of Executive Engineer, Research and Training Division - 2, Water Resources Department, Khagaul, Patna.
10. Jitendra Kumar son of late Mahendra Prasad resident of village P.S.- Chandi, Distrit - Bhojpur, presently working as Lower Division Clerk in the office of Executive Engineer, Research and Training Division - 1, Water Resources Department, Khagaul, Patna.
11. Madan Mohan son of late Laljee Prasad Singh resident of village and post - Ghataro, P.S. - Kartanha, District - Vaishali, presently working as Upper Division Clerk in the office of Executive Engineer, Research and Training



Division - 1, Water Resources Department, Khagaul, Patna.

12. Upendra Prasad son of Ram Sharan Mahto resident of Qr. No. E- 3/7, Walmi Complex, P.S. Phulwarisharif, District - Patna, presently working as Lower Division Clerk in the office of Executive Engineer, Research and Training Division - 1, Water Resources Department, Khagaul, Patna.
13. Baban Prasad Singh son of Saudagar Singh resident of village and Post - Moidinpur, P.S. - Fatua, District - Patna, presently working as Head Clerk in the office of Executive Engineer, Research and Training Division - 1, Water Resources Department, Khagaul, Patna.
14. Jitendra Mishra son of Late Ram Singhasan Mishra resident of village - Akhtiyarpur, Patedha, P.S. - Sarai, District - Vaishali, presently working as Upper Division in the office of Executive Engineer, Research and Training Division - 3, Water Resources Department, Khagaul, Patna.
15. Devendra Kumar Dubey son o Late Kedarnath Dubey resident of village - Chorpokher English, P.S. - Dinara, District - Rohtas, presently working as Lower Division in the office of Executive Engineer, Research and Training Division - 3, Water Resources Department, Khagaul, Patna.
16. Ramjee Prasad son of Sri jagdish Prasad resident of Mohalla - Mohanpur, Punaichak, P.S.- Shastrinagar, District - Patna, presently working as Upper Division Clerk in the office of Executive Engineer, Quality Control Flood Control and Water Nistaran Division, Katihar.
17. Uday Kumar Sinha S/o late Rajeshwari Prasad Sinha R/o Village - Samshara, P.S. - Bihta, Dist Patna, posted as Upper Division Clerk in the office of Executive Engineer Quality Control Flood Control and Water ways Division, Muzaffarpur.
18. Ashok Kumar Sinha son of late Kamta Prasad resident of Mohalla - Sector No. 1, Mahatma Gandhi Nagar, P.S. Agamkuan, District - Patna, presently working as Head Clerk in the office of Executive Engineer, Research and Training Division - 3, Water Resources Department, Khagaul, Patna.
19. Purushottam Sinha son of B.K. Lal resident of Mohalla - Ashok Nagar, P.S. - Kankarbagh, District - Patna, presently working as Upper Division Clerk in the office of Executive Engineer, Research and Training Division - 3, Water Resources Department, Khagaul, Patna.
20. Chandra Bhushan Prasad son of late Bhola Prasad resident of Mohalla - Chowhatta, Darbhanga House Road, P.S. - Pirbahore, District - Patna, presently working as Upper Division Clerk in the office of Executive Engineer, Canal Structure Division - 4, Patna.
21. Umesh Prasad son of Bhola Prasad resident of village - Masaurhi, P.S.- Masaurhi, District - Patna, presently working as Upper Division Clerk in the office of Superintending Engineer, Quality Control Sinchai Srijan Division, Khagaul, Patna.
22. Shanker Kumar son of late Deep Narayan Prasad resident of Mohalla - Saidpur Road, P.S. Kadamkuan, District - Patna, presently working as Upper Division Clerk in the office of Executive Engineer, Research and Training Division No. 3, Khagaul, Patna.
23. Harendra Kumar Sinha son of late Suresh Pd. Sinha resident of Mohalla - Dundi Bazar, P.S.- Chowk, Patna City, District - Patna, presently working as



Upper Division Clerk in the office of Executive Engineer, Research and Training Division - 3, Water Resources Department, Khagaul, Patna.

24. Surendra Prasad son of Late Mahesh Bhagat resident of East of Bhikhachak, Anishabad, P.S. - Gardanibagh, District - Patna, presently retired as Correspondence Clerk from the office of Executive Engineer, Research and Training Division No. 1, Khagaul, Patna.
25. Jai Govind Rai son of Late Muni Mahesh Rai resident of village - Jai Ram Bazar, P.S.- Khagaul, District - Patna presently retired as Correspondence Clerk from the office of Executive Engineer, Training Division - 1, Khagaul, Patna.
26. Ramesh Rai son of Late Mangal Rai resident of village - Saidpura, P.S.- Khagaul, District - Patna presently retired as Upper Division Clerk from the office of Executive Engineer, Flood Control Division, Bakhtiyarpur, Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar represented through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna.
3. The Principal Secretary, Water Resources Department, Govt of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Shailesh Kumar Sharma, Advocate
For the Respondent/s : Mr Ajay Kr Rastogi, AAG X with
Mr Naman Nayak, AC to AAG X

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 28-02-2019

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

2 The admitted position, on factual basis, is that the petitioners were appointed on compassionate ground as Correspondence Clerks after 28.09.1999. Petitioner's are, therefore, similarly situated as the beneficiaries of the Government



decision dated 25.03.2015, whereby the scale of Rs 4000-6000/- was made applicable to appointees as Accounts Clerk on compassionate ground after 28.09.1999.

3 Benefits of the same decision was made applicable in case of all the petitioners by the Government decision dated 16.07.2015 under Memo No 6338. The same was subsequently sought to be withdrawn and disparity in the matter of grant of pay scale to the petitioners who were Correspondence Clerk to that of others who were appointed was sought to be restored by the Government decision dated 14.09.2015.

4 Petitioners have been agitating for grant of the same scale as that granted to other appointees on compassionate ground on the post of Accounts Clerk. They were required to represent before the authorities in respect of their claims. Representations were made to the association and finally their claim has been rejected for grant of pay scale of Rs 4000 – 6000/- being granted to the Accounts Clerk appointed on compassionate ground after 28.09.1999 by the decision dated 29.03.2016 by the Finance Department.

5 The issue regarding scale of Rs 4000 – 6000/-, maintaining parity with that granted to Accounts Clerk appointed on compassionate ground after 28.09.1999 was decided by order



of this Court in the case of *Binit Kumar -Versus- State of Bihar & Others* passed in CWJC No 9921 of 2017, as affirmed by the Division Bench of this Court in the proceedings arising out of LPA No 1702 of 2017, preferred by the State of Bihar against order passed in the case of *Binit Kumar (supra)*. The appointees as Correspondence Clerk after 28.09.1999 in terms of pronouncement made by this Court in the proceedings arising out of CWJC No 9921 of 2017 and LPA No 1702 of 2017 have been found to be entitled to the same pay scale as is being granted to the Accounts Clerk appointed on compassionate ground after 28.09.1999. The decision, therefore, squarely covers the claim of the petitioners inasmuch as there is no distinction in the claim of the instant petitioners vis-a-vis that of *Binit Kumar (supra)*.

6 In view of the issue being *covered matter* under Clause 4.C (1) of the Bihar State Litigation Policy, 2011, this Court would observe that in order to conduct themselves as an effective litigant under the Bihar State Litigation Policy, 2011, the State Government is obliged to extend the same benefits to the petitioner as has been extended upon in the case of *Binit Kumar (supra)*.

7 In view of the pronouncement of this Court, as affirmed by the Division Bench, order dated 14.09.2015 as well as



order dated 29.03.2016 thereafter are unsustainable in law and the same are quashed. Petitioners are, therefore, entitled to the same benefits as has been extended in the case of *Binit Kumar (supra)*.

8 Writ petition is allowed in terms of the said judgment in the case of *Binit Kumar (supra)*.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.03.2019
Transmission Date	NA

