

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 11466 of 2016

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Rahul Raja, Son of Late Yogendra Prasad Pathak, resident of House No A-11/11, Kusumpuram Colony, P.S- Rupaspur, District- Patna, presently posted as Lower Division Clerk in the Office of Executive Engineer, Advance Planning Division- 1, R.W.D., on deputation in Bihar Rural Road Development Agency, Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
3. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
4. The Secretary (Expenditure), Department of Finance, Government of Bihar, Patna.
5. The Under Secretary-in-Chief -cum-Additional Secretary, Rural works Department, Government of Bihar, Patna
6. The Under Secretary, Department of Finance, Government of Bihar, Patna.
7. The Administrative Officer, Bihar Rural Roads Development Agency, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Bibhakar Tiwary, Advocate
For the S t a t e	:	Mr Mujtabaul Haque, GP XII with Mr Manish Kumar, AC to GP XII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 28-02-2019

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

2 The admitted position, on factual basis, is that the petitioner was appointed on compassionate ground as Correspondence Clerk after 28.09.1999. Petitioner is, 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 The same was subsequently sought to be withdrawn and disparity in the matter of grant of pay scale to the petitioners who was Correspondence Clerk to that of others who were appointed was sought to be restored by the Government decision dated 14.09.2015.

4 Petitioner 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. Petitioner is, 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

