

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5422 of 2019

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1. Anil Kumar Karak, Son of Late Badri Narayan Karak R/o Village/Mohalla-Bidyapati Nagar, Balbhadrapur, Ward No. 48, Police Station-Bahadurpur Laheriyasari, District-Darbhanga
 2. Md. Naqiuddin S/o Late Md. Raziuddin R/o Village/Mohalla-Mishriganj Kotwali Chowk, Bhawara, No. 29, P.S. Madhubani Town, District-Madhubani
 3. Maya Mallick Widow of Late Mithilesh Kumar Mallick R/o Village/Mohalla-Khhajasari, P.S. Bahadurpur Laheriyasari, District-Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Finance Department, Government of Bihar, Old Secretariat, Patna
2. The Principal Secretary Finance Department, Government of Bihar, Old Secretariat, Patna
3. The Secretary (Expenditure) Finance Department, Government of Bihar, Old Secretariat, Patna
4. The Additional Secretary Finance Department, Government of Bihar, Old Secretariat, Patna
5. The Joint Secretary Finance Department, Government of Bihar, Old Secretariat, Patna
6. The Assistant Controller (Budget) Finance Department, Government of Bihar, Old Secretariat, Patna
7. The Treasury Officer Secretariat Treasury, Sinchai Bhawan, Patna
8. The Treasury Officer Secretariat Treasury, Vikash Bhawan, Patna
9. The District Treasury Officer Madhubani P.s. and District-Madhubani
10. The District Treasury Officer, Darbhanga P.S. and District-Darbhanga

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Prasad, Advocate
For the Respondent/s : Smt. Anuradha Singh (SC-21)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 09-04-2019

Heard the learned counsel for the petitioners and
the State.



2. Mr. Ashok Kumar Prasad, learned advocate for the petitioner submits that the case of the petitioner is exactly similar to the facts of the case in Syed Reyaz Monir and Others Vs. the State of Bihar and Others in C.W.J.C. No. 23781 of 2012 wherein, a bench of this Court vide order dated 23.08.2017 has held as follows:

7. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds merit in the submissions of the learned senior counsel for the petitioners that the issue is no longer res integra. The respondents have virtually taken a solitary ground for denying the benefits in question to the petitioners, to the effect that the petitioners were initially appointed on compassionate basis and their cases stood on a different footing than those who had opted for treasury cadre in the year 1979. As in the counter affidavit and so also in the order contained in Memo No. 6391 dated 10.08.2016 (Annexure-22), this has been made explicit. It is relevant to take note of



letter no. 1693 dated 13.03.2007 expressing the view that in respect of the persons working in the treasury who had been appointed on compassionate basis or other than those who had opted for the treasury cadre in the year 1979, they were entitled to pay scale of Rs. 4000-6000 with effect from 01.01.1996 and not to the pay-scale of Rs. 5000-8000. This Court in CWJC No. 817 of 2017 (Prabhat Shankar Poddar Vs. The State of Bihar & others) vide order dated 20.07.2011 (Annexure-8), while considering this issue, has already quashed the letter no. 1693 dated 13.03.2007 and LPA No. 2006 of 2011 (The State of Bihar and Ors. Vs. Prabhat Shankar Poddar) against the said decision has been dismissed vide order dated 05.12.2013. The decision of the Hon'ble Jharkhand High Court in W.P. (S) No. 742 of 2004 (Satyendra Kumar Dubey Vs. The State of Jharkhand & Ors.) has travelled upto the Hon'ble Supreme Court in SLP (Civil) No. 6897 of 2007 which was however dismissed both on the ground



of inordinate delay and merits vide order dated 13.08.2007.

8. This Court therefore has no hesitation in holding that the classification sought to be made by the respondents between the persons who were initially appointed on compassionate basis such as the petitioners, and those who had opted for treasury cadre in the year 1979, cannot be said to be a reasonable one and is thus unsustainable in law. The petitioners cannot be denied the benefit of higher pay scale and other benefits as claimed. Accordingly, the order contained in Memo No. 6391 dated 10.08.2016 (Annexure-22) is hereby quashed with a direction to the respondents to grant the petitioners' pay scale of Rs. 5000-8000 with effect from 01.01.1996 or from their respective dates of joining, whichever is later, as well as replacement pay scale of Rs. 9,300-34,800 with Grade Pay of Rs. 4200/- with effect from 01.01.2006 as granted in the case of the employees of the treasury cadre, with all consequential benefits.



3. If the case of the petitioners are similar to the case of the petitioners in C.W.J.C. No. 23781 of 2012 they shall also be governed by the same order and shall be paid their salary and other dues as has been indicated and clarified in the order referred to above.

4. With the aforesaid direction/observation, the writ petition is disposed of.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.04.2019
Transmission Date	

