

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 13201 of 2014

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1. Baleshwar Sharma, Son of Late Jagdish Sharma Resident o Bandhuganj, P.S. Ghoshi, District Jehanabad, at Present Laboratoyr Assistant, Lok Nayak Jai Prakash Prodyogiki Sansthan, Chapra, Presently on deputation Government of Polytechnic, Gulzarbagh, Patna- 7
 2. Dr. Rajesh Ranjan Das Son of Late Hridaya Naryan Das Resident of Mohalla Sarojini Sadan, T.S. Tank South, P.O.- Laheriasarai, PS. Bahadurpur, District- Darbhanga at Present on deputation Lok Nayak Jai Prakash Prodyogiki Sansthan, Chapra.
 3. Hira Kant Jha Son of Late Ram Chandra Jha Resident of Village Nagar Panchayat, Jhanjharpur, Ward No. 10, P.S. Jhanjharpur, District Madhubani, at Present Laboratory Assistant, Polytechnic Dharbhanga, at Presetly on Deputation Government of Polytechnic, Katihar
 4. Shri Kant Pandey Son of Late Lakshmi Narayan Pandey Resident of Village Saraiya, P.S. Harsidhi, District East Champaran, at Present Labortory Assistant, Motihari College of Engineering, Motihari.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Science and Technology, Bihar, Patna.
3. The Director, Department of Science and Technology, Government of Bihar, Patna.
4. The Joint Secretary, Department of Science and Technology, Bihar, Patna.
5. The Deputy Secretary, Department of Science and Technology, Bihar, Patna.
6. The Principal Secretary, Department of Finace, Bihar, Patna.
7. The Principal Incharge, Lok Nayak Jai Prakash, Prodyogiki Sansthan, Chapra.
8. The Principal, Government Polytechnic, Gulzarbagh, Patna 7
9. The Principal Incharge, Government of Polytechnic Darbhanga.
10. The Principal Incharge, Government of Polytechnic, Katihar.
11. The Principal Incharge, Motihari College of Engineering, Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr Tara Nath Jha, Advocate
For the Respondent/s	:	Mr Birju Prasad, GP XIII
		M/s Anmol Kr, Ashok Kr, ACs to GP XIII

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT



Date : 16-07-2019

Heard learned counsel for the petitioners and the respondents.

2 Petitioners are aggrieved by rejection of their claim of UGC scale under order dated 28.01.2006 issued by the Director, Science and Technology Department, Government of Bihar, Patna.

3 Claim of the petitioners, who were earlier working as Laboratory Assistant in the Government Technical Institutions, has been rejected relying upon the Resolution dated 05.07.1991 bearing Memo No 1836. Petitioners' counsel has placed reliance on a decision of this Court in the case of Ram Kumar Prasad & Others -Versus- State of Bihar & Others decided in CWJC No 5238 of 2006 which has been affirmed by a Division Bench of this Court and subsequently by the Apex Court. The orders of the Division Bench and Apex Court are dated 25.11.2011 in LPA No 1455 of 2010 and order dated 30.08.2012 passed in SLP (Civil) No 8064 of 2012.

4 This Court, in the proceedings arising out of CWJC No 5238 of 2006, has considered the effect of Resolution dated 05.07.1991 which has been relied upon by the respondent-Director to reject the claim of the petitioners. This Court has held that the recitals in the Resolution are clarificatory in nature having regard



to the ongoing controversy between the Laboratory Assistants and Demonstrators. In respect of other similarly situated as the petitioners, this Court has held that they would be persons equivalent to Demonstrator on the date they came to be appointed as Graduate Laboratory Assistant and are entitled to UGC pay scale.

5 In view of such decision in respect of other similarly situated as the petitioners, the respondent-authorities, having regard to the provisions contained in Bihar State Litigation Policy of 2011 should have considered the claim of the petitioners under Clause 4.C (1) which is in respect of covered matters. The reason assigned in the impugned order dated 28.01.2006 based on Resolution dated 05.07.1991, on the face of it is contrary to order passed in CWJC No 5238 of 2006 and is clearly unsustainable.

6 The Authorities should, therefore, take decision afresh in the case of the petitioners and if there is no impediment other than reason assigned in the impugned order dated 28.01.2006 then benefit, similar to that which has been extended to the petitioners of CWJC No 5238 of 2006, should also be granted to the petitioners of this case.

7 If the respondents find the claim of the petitioners at par with the petitioners of CWJC No 5238 of 2006 on all other



counts, then the benefit should be extended to the petitioners within eight weeks from the date of receipt/production of a copy of this order.

8 In the event, the case of the petitioners is not found tenable, then claim should be dealt with by reasoned and speaking order in accordance with law.

9 Writ petition stands disposed of.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.07.2019
Transmission Date	NA

