

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13663 of 2014

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1. Rajendra Mishra and Anr S/o Late Bhairav Mishra R/o Village- Gurmaha, P.S. Pandal, Distt- Madhubani, Retired from Class-IV Post while posted in the Office of Executive Engineer, East Embankment Division, Water Resources Department, Virpur.
 2. Ram Prasad Mandal S/o Late Baldeo Mandal R/o Village Simaria, P.S. Triveniganj, Distt- Supaul, Retired from Class-IV, post Office obedient while Posted in the Office of Flood Control Division No. 2, Jhanjharpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through Agriculture Production Commissioner, Department of Agriculture, New Secretariat, Bihar, Patna.
2. The Agriculture Production Commissioner, Department of Agriculture, New Secretariat, Bihar, Patna.
3. The Engineer- in- Chief, Sichai Bhawan, Water Resources Department, Old Secretariat, Government of
4. The Chief Engineer, Water Resources Department, Birpur.
5. The Executive Engineer, Water Resources Department, East embankment Division, Birpur.
6. The Executive Engineer, Rupankan Pramandal No. 2, Designed Division, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jai Prakash Verma
For the Respondent/s : Mr. J.K.Roy-1, SC 13

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 23-07-2019 Counsel for the petitioners submits that in view of the statements made in para 4 of the counter affidavit filed on behalf of respondent Nos. 3 to 5 the claim of the petitioner No. 1 stands admitted.

Relevant extract of para 4 of the counter affidavit which is being relied upon by the petitioners is being reproduced:-



“As far as the question of pay protection is concerned, it is to say that pay protection is not admissible as per Karmik and Parshasnik Sudhar Vibhag letter no. 5661 dated 02.09.2008. So far his grade pay is concerned, the petitioner’s pay has been fixed in running pay band of Rs. 5200-20200 with grade of Rs. 1800 and arrear to this effect has prepared from 04.07.2011 to 31.12.2012 bearing bill no. 82/2014-15 has been submitted to the Treasury, Birpur (Supaul) for passing and payment through his Bank account.”

The petitioners have no instruction whether pursuant to the said exercise payment was actually made in the bank account of petitioner No. 1.

The respondents in the counter affidavit have also stated that in respect of pay protection, the authorities have been directed to examine the claim by communication dated 4.7.2011 issued by Deputy Secretary of the Department. As per the same, claim of the petitioners is to be examined on the basis of LPC issued by the dissolved board by the department where the employee has been absorbed/appointed. The petitioners are in the Water Resources Department.

In the circumstances claim of the petitioners in terms of government decision has to be examined by respondent No. 3.



Petitioners' Counsel has no instruction whether pursuant to the said stand of the respondents in the counter affidavit any final decision has been taken in respect of the petitioners.

In the circumstances, this Court would observe that if no final decision has been taken till date, Engineer in Chief shall take a decision in respect of claim of the petitioners for pay protection having regard to government decision taken note of hereinabove within a period of three months from the date of receipt/production of a copy of this order. Petitioners if found entitled to benefits shall be paid the same within a period of one month thereafter.

Writ petition stands disposed of/

(Madhuresh Prasad, J)

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