

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1016 of 2016

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1. Mahesh Prasad Singh, son of Late Binda Singh, r/o Quarter No. 260/800 Lal Bahadur Shastri Nagar, PS Shastrinagar, District Patna
 2. Akhouri Dharendra Kumar Singh, son of Late Akhauri Udayachal Prasad Singh, r/o Flat No. 201 Lilabati Apartment Jhunjhun Mahal Road New Yarpur, PS Gardanibagh, District Patna
 3. Awanish Kumar Tripathi, s/o Late Brahameshwar Nath Tripathi, r/o quarter No. 212/400, Rajbanshi Nagar, PS Shastrinagar, District Patna
 4. Dinesh Pandey, s/o Late Rajendra Pandey, r/o Quarter No. 100/400, Rajbanshinagar, PS Shastrinagar, District Patna
 5. Shivjee Prasad, s/o Late Ramrekha Pd., r/o Mohalla Chankyapuri, PS Rajabazar, PS Shastrinagar, District Patna
 6. Ajay Kumar Verma, s/o Late Sharda Pd. Verma, r/o Mohalla New Karman Tola, behind private bus stand, PS Nawada (Arra), District Bhojpur

... .. Petitioners

Versus

1. The State Of Bihar
2. The Principal Secretary, General Administration Department, Govt. of Bihar Patna
3. The Chairman, Grievance Redressal Committee, General Administration Department, Govt. of Bihar, Patna
4. The Additional Secretary, General Administration Department, Govt. of Bihar Patna
5. The Under Secretary to the Government, General Administration Department, Govt. of Bihar Patna

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Satish Chandra Jha-3
For the Respondent/s	:	Mr. Gyan Prakash Ojha, GA 7
		Mr. Gopal Krishna, AC to GA 7

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 02-01-2019 Heard learned Counsel for the petitioners and the learned Counsel for the respondent State.

Learned Counsel for the petitioners submits that in the matter of grant of junior selection grade prior to 1.1.1996 they have been discriminated against inasmuch as their juniors have



been allowed the benefit and financial progression.

Counsel for the State relying upon the averments made in the counter affidavit has submitted that in the light of departmental letter No. 19629 dated 1.10.1974 of the Department of Personnel and Administrative Reforms, Government of Bihar, reservation policy was applicable in the matter of grant of selection grade and, as such, the petitioners could not claim parity with the juniors who were of reserved category and were considered for grant of benefit as per their own category.

Counsel for the writ petitioners has placed reliance upon a decision of this Court in the case of ***Ram Prakash Lal vs. State of Bihar & ors, 1998(1) PLJR 337.***

The decision of the Personal and Administrative Reforms Department dated 1.10.1974 which is being relied upon to resist the claim of the petitioners has already been set aside by this Court in the decision of ***Ram Prakash Lal*** relied upon by the Counsel for the petitioners. Para 8 of the said judgment reads as follows:-

“8. Accordingly, while I hold that the reservation principles cannot be made applicable in the matter of grant of selection



grade scale, I set aside the guideline, contained in letter No. 19629 dated 4th of October 1974 (Annexure – 4) issued from the Personnel Department of the State of Bihar. I also set aside the order of promotion of Respondent No. 5, Shri Vijay Angels Toppo to the Junior Selection Grade Scale, as granted by the impugned notification dated 10th of September, 1990. The matter is remitted to the respondents to consider the case of the petitioner vis-a-vis Respondent no. 5 and other eligible persons for promotion to Selection Grade Scales (junior or senior to which they are entitled), in accordance with law, without taking into note the reservation policy for such grant of selection grade scale.”

In view of the pronouncement of this Court in the case of ***Ram Prakash Lal (supra)*** the reason assigned for denying the petitioners’ claim based on the same departmental letter dated 1.10.1974 is wholly unsustainable in law. The petitioners as per the decision of this Court in ***Ram Prakash Lal’s*** case are also entitled to consideration of their claim as a “***covered matter***” in terms of the State Litigation Policy, 2011 more specifically Clause 4(C)(i) thereof. Accordingly, the departmental letter Nos. 10941, 10947, 10946, 10942, 10945 all



dated 7.8.2014 and letter No. 8212 dated 24.5.2013 issued under the signature of Under Secretary to the Government, General Administrative Department, Government of Bihar, (Annexure 1 series) are quashed.

In view of the aforesaid findings, this Court would direct that respondent No. 2 shall consider the petitioners' claim having regard to the judgment of this Court in the case of ***Ram Prakash Lal (supra)*** and their own Litigation Policy 2011 without raising the issue of the petitioners' claim being barred or ineligible in terms of departmental letter dated 1.10.1974.

The writ petition is allowed. The respondent authorities are directed to consider the petitioner's claim within a period of eight weeks from the date of receipt/production of a copy of this order and pass a reasoned order in accordance with law without placing any reliance on the departmental decision dated 1.10.1974. If the petitioners are found entitled to any consequential benefits, the same should also be paid within eight weeks thereafter.

(Madhuresh Prasad, J.)

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