

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20152 of 2019

1. Panchanan Sharma Son of Sri Ram Bibhuti Sharma, Resident of Flat no. 103, Anand Ashram, Saubhagya Sharma Path, Rukanpura, District- Patna, Pin- 800014
2. Choudhary Brijendra Kumar Rai, Son of late Choudhary Baikunth Rai, Resident of Village and P.O.- Narhi, District- Balliah, Uttar Pradesh, Pin- 277503
3. Vijay Prakash Mishra, Son of late Thakur Prasad Mishra, Resident H.N. 629, Krishna Nagar Colony, P.O. Basharatpur, Uttar Pradesh, Pin - 273004
4. Prem Chandra Gupta, Son of Bachchan Prasad Gupta, Resident of B- 19, Phase -III, Patrakar Puram, Rapti Nagar, Gorakhpur, Uttar Pradesh, Pin- 273003
5. Ashutosh Kumar Singh, Son of late Shubh Narayan Singh, Resident of H.I.G.- B/417, Siddharth Enclave, Taramandal, Bhagat Chouraha Gorakhpur, Uttar Pradesh, Pin - 273017
6. Shailendra Kumar Pandey, Son of late Surendra Prasad Pandey, Resident of House No. 179/1, Mohalla- Bettiahata, H.P. Dubey Marg, P.O. Sivapuri Colony, District- Gorakhpur, Uttar Pradesh, Pin - 273016
7. Saroj Kumar Srivastava, Son of late Ram Naresh Lal Srivastava, Resident of Gemini Paradise Apartment, Block No. 2 Flat No. 124, Medical College Road, Gorakhpur, Uttar Pradesh.
8. Roop Narain Tripathi, Son of late Veerbhadra Tripathi, Resident of Siddharthpuram Vistar, HIG- III/3, Taramandal, P.O. Siddharth Enclave, District- Gorakhpur, Uttar Pradesh, Pin - 273017
9. Rajkishoren Chaubey Son of late Baliram Chaubey, Resident of H.I.G.- C- 400, Deoria Bypass Road, near Bhaat Chauraha, Siddharth Enclave, Taramandal, District- Gorakhpur, Uttar Pradesh, Pin- 273017
10. Umesh Chandra Srivastava, Son of late Bageshwari Prasad Srivastava, Resident of M.I.G. 126, Subhash Chandra Bose Nagar Colony, Near Suraj Kund, P.O. Gorakhnath, District- Gorakhpur, Pin- 273015
11. Bashisth Shukla, Son of Chandra Shekhar Shukla, Resident of 278, Umanagar (North), Near Mahila Degree College, Ward No. 24, District- Deoria, Uttar Pradesh, Pin - 2741001.
12. Diwakar Mishra, Son of Shri Hari Bansh Mishra, Resident of House No. 205, Ward No. 08, Ram Gulam Tola, Bhikhampur Road, P.O. Deoria, P.S. Kotwali, District- Deoria, Uttar Pradesh, Pin - 274001
13. Daya Shankar Tiwari, Son of late Shio Kumar Tiwari, Resident of Village Shahpur Bhikham, P.O. Shahpur Shukla, P.S. Baghauchghat, District- Deoria, Uttar Pradesh, Pin -274404
14. Nand Kishore Prasad Gupta, Son of late Ramchandra Prasad Gupta, Resident of 18/208 Garunpar Nai Basti, New Colony, Uttar Deoria, District- Deoria, Uttar Pradesh, Pin -274001
15. Samaya Nath Srivastav Son of Ram Pyare Lal Srivastava, Resident of Geeta Sadan, Bharwalia Buzurg Panchwati Nagar, Near Shiv Mandir, Taramandal



Road, P.O. Siddharth Enclave, District- Gorakhpur, Uttar Pradesh, Pin- 273017

16. Dinesh Kumar Srivastava, Son of late Hari Ram Lal Srivastava, Resident of P.O. Mohoddipur, Near Sardar Baba Singh Ki Kothi, District- Gorakhpur, Uttar Pradesh, Pin- 273001.
17. Nand Kumar Shrivasta Son of late Kanhaiya Lal Srivastav, Resident of 402/3 Vishal Residency, Raja Bazar, Patna, Bihar, Pin - 800014
18. Raghwendra Kumar Singh, Son of late Shiv Kumar Rai, Resident of Flat No. 304, S.S. Vihar Apartment, Karbigahiya, District-Patna, Pin - 800001
19. Om Prakash Son of late Ramkripal Lal resident of Flat No. 305, S.S. Vihar Apartment, Karbigahiya, District- Patna, Pin- 800001
20. Balram Singh, Son of Sri Shiv Kumar Singh, Resident of 102, Dhanrajn Tower, Danapur- Khagaul Road, Ward No. 11, Danapur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary to the Government of Bihar, Department of Administration, Patna- 1
2. The Principal Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Patna.
3. Secretarty to the Government of Bihar, Department of Law, Patna- 1
4. The High Court of Judicature at Patna, through Registrar General, Patna.
5. The Registrar General, Patna High Court, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar
For the Respondent/s : Mr. P.K. Verma (AAG-3)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-09-2019

1. Heard the learned counsel for the parties.

2. All the petitioners who were selected in the Bihar

Judicial Service Examination and appointed as such came to



be, during their period of service while serving in the parent cadre, appointed as *ad hoc* Additional District & Sessions Judge, Fast Track Court. They have come up contending that the period which has been rendered as an *ad hoc* Additional District & Sessions Judge, Fast Track Court, should be counted for the purpose of grant of pensionary benefits.

3. Learned counsel for the petitioners has cited the judgement in the case of *Brij Mohan Lal (1) Versus Union of India [(2002) 5 SCC 1]* and *Brij Mohan Lal (2) Versus Union of India [(2012) 6 SCC 502]*. Learned counsel for the petitioners has further invited the attention of the Court to the judgement in the case of *Mahesh Chandra Verma (1) Versus State of Jharkhand & Ors. [(2012) 11 SCC 656]* and *Mahesh Chandra Verma (2) Versus State of Jharkhand & Ors. [(2018) 7 SCC 270]*. The fifth judgement cited by the learned counsel is the latest pronouncement of the Apex Court in the case of *Kum C. Yamini Versus The State of Andhra Pradesh & Anr.*, decided on 14th of August, 2019 by Three-Judges Bench of the Hon'ble Apex Court.



4. We have examined the contents of all the aforesaid decisions and what can be culled out therefrom is that the period of service rendered as an Additional District & Sessions Judge, Fast Track Court cannot be counted for the purpose of seniority. However, such period having been rendered as *ad hoc* Fast Track Court Judges by actually dispensing justice, on the facts of the present case, would, obviously, be have to be construed that the petitioners had rendered service while retaining their parent cadre of Civil Judge-Senior Division and therefore the said period can be counted for the purpose of benefits as being member of their parent cadre.

5. This issue is no longer *res integra* and has been answered by a Division Bench of this Court in the case of *Ram Prabhu Pandey Versus The State of Bihar & Ors.* that has been relied upon by the learned counsel for the High Court, Shri Styabir Bharti. A copy of the said judgement dated 26th of February, 2014 has been placed before this Court.

6. We do not find ourselves in any disagreement with the ratio thereof so as to take a different view keeping into



consideration the ratio of the judgements that have been cited at the Bar by the learned counsel for the petitioners.

7. In view of this, the prayer made by the petitioners to count their period of *ad hoc* services as the Additional District & Sessions Judge, Fast Track Court for the purpose of pensionary benefits has to be read as services in the parent cadre of Civil Judge-Senior Division. Moreover, this is not a case where the period of service in the parent cadre has been excluded.

8. In the above background, no such *mandamus* can be issued as prayed for.

9. The petition is accordingly consigned to records.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

skm/Krishna

AFR/NAFR	AFR
CAV DATE	
Uploading Date	27.09.2019
Transmission Date	

