

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5989 of 2020

1. Gopal Kumar Son of Late Shivnandan Prasad Sharma Residing Village-Karouta, P.O.- Doma, P.S.- Salimpur, District- Patna.
2. Niraj Kumar Son of Late Anil Kumar Residing at Old Jakkanpur, Devi Asthan, P.O.- G.P.O., P.S.- Jakkanpur, District- Patna.
3. Jai Prakash Kumar Son of Late Bijendra Prasad Resident of Village and P.O.- Madanpur, P.S.- Akangarsarai, District- Nalanda.
4. Anand Ojha Son of Late Hareram Ojha Resident of Village- Deokuli, P.S.- Brahampur, District- Buxar, at present working in the office of District Education Office, Bhojpur, District- Ara as Assistant Clerk.
5. Priyarajan Kumar Son of Late Ram Naresh Singh Residing at Village-Goura, P.S.- Dariyarpur, District- Patna.
6. Rajiv Kumar Son of Late Chandrashekhar Prasad Resident of Village- Gaya Sahay, P.O. and P.S.- Islampur, District- Nalanda.
7. Hitendra Prasad Son of Late Rajendra Prasad Sinha Resident of Village Kundi, P.O.- Daruara, P.S.- Nursarai, District- Nalanda.
8. Manoj Bhushan Son of Late Dinesh Kumar Residing at Parwalpur, P.O. and P.S.- Parwalpur, District- Nalanda.
9. Vijay Kumar Son of Late Ajit Kumar Mitha Resident and P.O. and P.S.- Piro, District- Bhojpur.
10. Brajesh Kumar Son of Late Bishnudeo Sharma Residing at Thukari, P.O.- Banouli, P.S. Paliganj, District- Patna, at present working at Rajkiya Balik High Secondary School Rajendra Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The Additional Chief Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Director, Secondary Education, Govt. of Bihar, Patna.
5. The Regional Deputy Director of Education, Patna Division, District- Patna.
6. The District Education Officer, Patna, District- Patna.
7. The District Education Officer, Buxar, District- Buxar.
8. The District Education Officer, Nalanda, District- Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sharda Nand Mishra
For the Respondent/s	:	Mr. Rajesh Kumar Sinha, AC to Gp-23



CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 13-12-2021

Heard the learned counsels for the parties.

2. In the instant petition, petitioners have prayed for following reliefs:-

“1. That this writ application is being filed for issuance of nature of the writ of mandamus for direction to the respondents for considering the case of the petitioners for grant of the scale Rs. 4000-6000 in pursuance of the order dated 23.07.2018 passed by Hon’ble High Court in CWJC No. 3353/2018, CWJC No. 8821/2018 as well as order dated 23.06.2017 passed in LPA No. 167 of 2016 by which directed to respondents to pay the benefit in the scale of pay Rs. 4000-6000 w.e.f. date of their appointment and further issue direction to respondents consider the case of the petitioners for grant of the scale of Rs. 4000-6000 w.e.f. dated of their appointment and pay the arrear of salary and further give other legal consequential benefit to the petitioners.”

3. Undisputed facts are that the petitioners were appointed to the post of Clerk in the pay-scale of Rs. 3050/- to 4500/- on 13.08.2001. Petitioners have claimed that they are entitled to pay-scale of Rs. 4000/- to 6000/- with reference to decision of this Court passed in CWJC No. 1498 of 2011 read



with LPA No. 167 of 2016. LPA was decided on 23.06.2017. The petitioners have not apprised this Court that the post of Clerk carries the pay-scale of Rs. 4000/- to 6000/- as on 13.08.2001 so as to extend the benefit of pay-scale of Rs. 4000/- to 6000/-. Further, if the pay-scale attached to the post of Clerk is revised in the year 2005, automatically petitioners are entitled for corresponding pay-scale attached to the post of Clerk. The petitioners are not entitled to pay-scale of Rs. 4000/- to 6000/- merely because some of the persons have been extended the benefit of pay-scale in terms of the aforesaid decision of this Court. Where a wrong benefit has been inadvertently granted to a person, similar relief to other cannot be granted. Plea of discrimination would be rejected as held by the Apex Court in the case of ***Chaman Lal Vs. State of Punjab*** reported in (2014) 15 SCC 715.

Apex in case of ***Nair Service Society Vs. Dr. T. Beermasthan & Ors.*** reported in (2009) 5 SCC 545 at para 48 held as under:

“48. Several decisions have been cited before us by the respondents, but it is well established that judgments in service jurisprudence should be understood with reference to the particular service rules in the State governing that field. Reservation provisions are enabling



provisions, and different State Governments can have different methods of reservation. There is no challenge to the Rules, and what is challenged is in the matter of application alone. In our opinion the communal rotation has to be applied taking 20 vacancies as a block.”

4. In the light of aforesaid decisions, the decision of this Court cited supra is distinguished since petitioners have failed to furnish any notification relating to revised pay-scale attached to the post of Clerk in the pay-scale of Rs. 4000/- to 6000/- as on 13.08.2001, the date on which they were appointed.

5. Accordingly, the instant petition stands dismissed reserving liberty to the petitioners to approach the concerned authority in the event of any revision of pay-scale attached to the post of Clerk is notified by the State Government, in that event petitioners are at liberty to approach the concerned authority by making fresh representation.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

