

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 188 of 2021

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1. Alok Ranjan, aged about 27 years, gender-Male,
son of Late Ram Lochan Jha, working as clerk in
D.E.O. Office, Darbhanga, District-Darbhangha
 2. Pankaj Kumar Sah, aged about 27 years, gender-
Male, Son of Pawan Kumar Sahv, working as clerk
in D.E.O. Office, Darbhanga, District-Darbhangha
 3. Amit Kumar, aged about 32 years, gender-Male,
son of Late Arvind Kumar Lala, working as clerk in
D.E.O. Office, Darbhanga, District-Darbhangha

... .. Petitioner/s

Versus

1. The State of Bihar through the Director (Secondary
Education) Govt. of Bihar, Patna.
2. The Director, Secondary Education, Govt. of Bihar,
Patna
3. The Regional Deputy Director of Education,
Darbhanga Division, Darbhanga
4. The District Education Officer, Darbhanga

... .. Respondent/s

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Appearance :

For the Petitioner/s :Mr. Amresh Kumar Singh. Adv.

For the State :Mr. Jitendra Kumar Roy, SC-13



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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 09-07-2021

Heard the learned counsel for the petitioners, Sri Amresh Kumar Singh, and the learned counsel appearing for the State, Sri Jitendra Kumar Roy, (SC-13).

2. The present writ petition has been filed by the petitioners for directing the respondent authorities to pay salary in the revised pay scale i.e. Rs. 4000-6000/- in place of the basic pay scale of Rs. 3050-4500/-.

3. The brief facts of the case are that the petitioners were granted appointment on compassionate ground on the post of Lower Division Clerk, after recommendations were made by the District Compassionate Committee vide orders dated 02.12.2014, 04.09.2015 and 31.03.2017, respectively. The appointment orders of the petitioners were then issued vide letters dated 15.12.2014, 08.09.2015 and 24.04.2017,



respectively.

4. The learned counsel for the petitioners submits that the replacement scale of the pay band of Rs. 3050-4590 is Rs. 5200-20200 whereas the replacement scale of pay band of Rs. 4000-6000, though is also the same but the grade pay is higher, hence the petitioners are suffering continuing loss.

5. The learned counsel for the petitioners has relied upon a dozen of judgments rendered by coordinate Benches of this Court on the basis of the judgment rendered by the learned Division Bench of this Court in the case of **Avinash Kumar Chakerwarty & Anr. Vs. The State of Bihar & Ors.** dated 23.06.2017 passed in L.P.A. No. 167 of 2016, which are being enumerated herein below:-

- (i) Order dated 20.12.2019 passed by a coordinate Bench of this Court in CWJC No. 25552 of 2019 (**Munazir Alam & Anr. Vs. The State of Bihar & Ors.**)
- (ii) Order dated 27.02.2020 passed by a



coordinate Bench of this Court in CWJC No. 4105 of 2020 (**Kundan Kishore & Anr. vs. The State of Bihar & Ors.**)

(iii) Order dated 17.02.2020 passed by a coordinate Bench of this Court in CWJC No. 25689 of 2019 (**Vijay Krishna Vidyarthi & Anr. vs. The Stte of Bihar & Ors.**)

(iv) Order dated 25.03.2021 passed by a coordinate Bench of this Court in CWJC No. 396 of 2020 (**Kr. Abhishek & Anr. vs. The State of Bihar & Ors.**)

(v) Order dated 25.02.2021 passed by a coordinate Bench of this Court in CWJC No. 4065 of 2020 (**Radha Shyam & Anr. vs. The State of Bihar & Ors.**)

(vi) Order dated 25.02.2020 passed by a coordinate Bench of this Court in CWJC No. 2397 of 2020 (**Mamta Kumari & Anr. vs. The State of Bihar & Ors.**)

(vii) Order dated 03.10.2018 passed by a coordinate Bench of this Court in CWJC No. 17151 of 2018 (**Manoj**



Kumar Chourasiya & Anr. vs. The State of Bihar & Ors.)

- (viii) Order dated 03.10.2018 passed by a coordinate Bench of this Court in CWJC No. 16761 of 2018 (***Dhananjay Sharma & Anr. vs. The State of Bihar & Ors.)***)
- (ix) Order dated 10.12.2019 passed by a coordinate Bench of this Court in CWJC No. 23243 of 2019 (***Sudhir Kumar & Anr. vs. The State of Bihar & Ors.)***)
- (x) Order dated 16.10.2020 passed by a coordinate Bench of this Court in CWJC No. 2587 of 2020 (***Sanjeet Kumar Satyakam & Anr. vs. The State of Bihar & Ors.)***)
- (xi) Order dated 27.02.2020 passed by a coordinate Bench of this Court in CWJC No. 2829 of 2020 (***Santosh Kumar Sinha & Anr. vs. The State of Bihar & Ors.)***)
- (xii) Order dated 27.02.2020 passed by a coordinate Bench of this Court in CWJC No. 2822 of 2020 (***Manish Kumar & Anr. vs. The State of Bihar & Ors.)***)



6. Per contra, the learned counsel appearing for the State, Sri Jitendra Kumar Roy (SC-13), has submitted that the case of the petitioners are distinguishable and in fact covered by another Division Bench judgment of this Court dated 19.02.2014, rendered in the case of **Smt. Mosarrat Aara Khanam & Anr. vs. The State of Bihar & Ors.**, passed in L.P.A. No. 100 of 2012 and one another analogous case, hence are not entitled to the pay scale of Rs. 4000-6000.

7. The learned counsel for the State has further submitted that the cut-off date for the purposes of grant of pay scale of Rs. 4000-6000 was/is 20.12.2000, as is apparent from the Finance Department, Government of Bihar letter No. 8825 dated 20.12.2000 and since the petitioners have been appointed after the cut-off date, they are not eligible for grant of the pay scale of Rs. 4000-6000 and in fact, they are entitled to the basic pay sale of Rs. 3050-4590/-. It is thus submitted that the present writ petition is fit to be dismissed.



8. At this juncture, the learned counsel for the petitioner, Sri Amresh Kumar Singh, has referred to a judgment passed by a coordinate Bench of this Court dated 25.02.2021 in the case of **Radha Shyam & Ors. Vs. The State of Bihar & Ors.** (CWJC No. 4065 of 2020) wherein the aforesaid judgment passed by the Division Bench of this Court in the case of **Smt. Mosarrat Aara Khanam & Anr. vs. The State of Bihar & Ors.** has been considered, however, still the petitioners of the said case, who had been appointed much after the cut-off date of 30.12.2000, have been granted relief by way of grant of the benefits of higher pay scale in the scale of Rs. 4000-6000. It would be relevant to reproduce the relevant paragraphs of the said judgment rendered in the case of **Radha Shyam & Anr.** (supra) herein below:-

"A counter affidavit was filed on behalf of the District Education Officer, Jehanabad. It is submitted by learned counsel for the State that so far as the petitioners herein are



concerned, they were appointed on the post of clerk between 19.6.2003 and 1.10.2004 i.e. much after 20.12.2000 when the cadre was demerged, reviving two cadres of Lower Division Clerk and Upper Division Clerk. Learned counsel for the State further relying on the counter affidavit filed on behalf of the Director Secondary Education refers to order dated 19.2.2014 passed in LPA no. 100 of 2012 (Smt. Mosarrat Arra Khanam and others vs. State of Bihar and others) to submit that in the said order it was held that the claim of pay scale of Rs. 4000-6000 was accepted by the Court as they were direct recruits, who constituted one isolated group and the appellants in the said case could not legitimately claim parity of pay with the direct recruits.

Having heard learned counsel for the parties and on going through the judgment dated 23.6.2017 passed in the case of Avinash Kumar Chakerwarty (Supra) it



transpires that this Court took note of the facts of the case and opined that even if for sake of argument it is assumed that the petitioners and employees are from two different categories, when more than 300 employees had been granted the benefit of higher pay scale in the grade of Rs. 4000-6000, there was no reason as to why similar benefits be not granted to the petitioners. Relevant portion of the order dated 23.6.2017 is quoted herein below for ready reference:-

“Even if for the sake of argument it may be assumed that the petitioners and the employees, who were petitioners in CWJC No. 13577 of 2006 form two different categories, there is no justification in the matter of discrimination between the present petitioners and the retrenched employees who were working in the non formal education scheme. It is clear that the non-formal education scheme came to an end and large number of Class-III and Class-IV employees was retrenched and thereafter in the year 2005 and



2006 as is evident from Annexures 4 and 5, they were re-appointed as a fresh appointee in the year 2005 and 2006, that is much after 20th December, 2000 and in their case, they have been granted the higher pay scale of Rs. 4000/- - Rs. 6000/-. If that be so, there is a discrimination in the matter of granting similar benefit to the petitioners when more than 300 employees have been granted such benefit of higher pay scale in the grade of Rs. 4000/- - Rs. 6000/- even after they were appointed in the year 2005 and 2006, there is no reason as to why similar benefits should be denied to the petitioners when the petitioners are also doing similar work and were appointed after 20th December, 2000. To that effect, there is discrimination in the matter and the petitioners are entitled to equal treatment.”

Thus in view of the facts and circumstances stated hereinabove as also in view of the Division Bench judgment of this Court dated 23.6.2017 (Annexure-2), this Court is of the opinion that the case of the



petitioners also is covered by the said judgment and thus, is allowed with a direction to the respondents to grant benefit to the petitioners in similar terms as the directions contained in judgment dated 23.6.2017 passed in LPA no. 167 of 2016. The consequential benefits shall be paid to the petitioners within three months of filing of the representation along with a copy of this order."

9. This Court finds that various coordinate Benches of this Court have granted relief to the similarly situated employees, more particularly considering the law laid down by the Ld. Division Bench of this Court in the case of **Avinash Kumar Chakerwarty & Anr.** (Supra) as also with a view to maintain judicial consistency since several orders have been passed in the cases of similarly situated employees, granting higher pay scale to them and further to avoid discrimination amongst the same set of employees. In such view of the matter, this Court is also persuaded to take the



same view as has been taken in the aforesaid one dozen cases by the coordinate Benches of this Court as also by the learned Division Bench of this Court in the case of **Avinash Kumar Chakerwarty & Anr.** (supra) and further by a coordinate Bench of this Court in the case of **Radha Shyam & Ors.** (supra).

10. Having regard to the facts and circumstances of the case, the writ petition stands disposed of in light of the order dated 10.12.2019 passed by a coordinate Bench of this Court in CWJC No. 23243 of 2019 (**Sudhir Kumar & Anr. Vs. The State of Bihar & Ors.**), order dated 25.02.2021 passed by a coordinate Bench of this Court in CWJC No. 4065 of 2020 (**Radha Shyam & Anr. Vs. The State of Bihar & Ors.**) and the one rendered by the learned Division Bench of this Court dated 23.06.2027, in LPA No. 167 of 2016 (**Avinash Kumar Chakerwarty & Anr. Vs. The State of Bihar & Ors.**). Consequently, it is directed that the petitioners shall be paid the benefits in the pay



scale of Rs. 4000-6000.

11. It is needless to stated that the arrears of salary shall be granted to the petitioners from the date the petitioners have filed the present writ petition i.e. the date of registration of the present writ petition, which is 21.01.2021, as has been observed in the judgment of the learned Division Bench of this Court, rendered in the case of **Avinash Kumar Chakerwarty & Anr.** (supra).

12. The writ petition stands disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	12.07.2021
Transmission Date	NA

