

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.174 of 2019**

**In**  
**Civil Writ Jurisdiction Case No.7207 of 2010**

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Umesh Prasad R/O Prahladpur ,P.S.- Ghoswari, District-Patna At Present  
Working As Assistant, Civil Court In The Judgeship Of Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar and Ors through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna
2. The Commissioner Cum Secretary, Finance Department , govt. of Bihar, Old Secretariat, Patna
3. The Commissioner Cum Secretary, Law Judicial Department, Govt. of Bihar, Patna
4. The High Court Of Judicature At Patna, Through Its Registrar General,Patna.Patna High Court,Patna. Bihar
5. Bihar State Civil Courts Employees Association, District Unit Muzaffarpur,through its District Secretary, Umesh Prasad
6. Himanshu Shekhar Tiwary Son of late Sudhakar Tiwary P.O. and P.S. Adampur, District Bhagalpur, at Present Assistant at Civil Court in the Judgeship of Muzaffarpur
7. Balmiki Prasad Singh Son of Sri Ram Kishun Prasad Singh Assistant Civil Court in the Judgeship of Nawada, resident of Professor Colony, Malgodam Road, Nawada.

... .. Respondent/s

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**Appearance :**

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| For the Appellant/s  | : | Mr. Abhinav Srivastava, Advocate |
| For the Respondent/s | : | Mr. Ajay Kumar Rastogi, AAG 10   |
|                      |   | Mr. Satyabir bharti, Advocate    |

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**

**and**

**HONOURABLE MR. JUSTICE RAJIV ROY**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

**Date : 23-08-2022**

Heard learned counsels for the parties.

2. In the instant appeal, appellant has assailed the order  
of the learned Single Judge dated 06.11.2018. The appellant's



grievance before the learned Single Judge in C.W.J.C. No. 7207 of 2010 reads as under:

“That, this is an application for issuance of an appropriate writ/order/direction to the respondent – State of Bihar, to consider the recommendation of the Standing Committee of this Hon’ble Court in its “correct perspective” as directed by this Hon’ble Court vide order dated 03.10.1997 passed in C.W.J.C. No. 5156/1994 and grant the same.

The direction in this case was to consider the recommendation of the standing committee dated 21<sup>st</sup>, 22<sup>nd</sup> and 23<sup>rd</sup> August, 1991, recommending the State of Bihar, for grant of the pay scale to the Assistants in the Civil Courts, equivalent to that of Assistants in the Secretariate/High Court i.e. the then scale of Rs. 1500-2750/-, which has the corresponding existing scale of Rs. 9200-34800/- (P.B.-II) with a grade pay of Rs. 4200/- by way of revision.

The relief is being sought for, for the reason, inter alia that the State of Bihar did not consider the matter at appropriate stage in 1994, nor took any decision in accordance with the directions as given by this Hon’ble Court in the aforesaid case, as a result of which, the petitioners and similarly situated persons were deprived of the consideration and grant of the higher scale of Rs. 1500-2750/-, which was revised to Rs. 5500-9000/- (by the Vth pay Revision Commission) and has finally been revised to Rs. 9300-34800 (P.B.-II) with a grade pay of Rs. 4200/-. Consequently the petitioners and other similarly situated persons remained in the then scale of Rs. 1200-1800/- which subsequently had been replaced



by Rs. 4000-6000/- (Vth pay Revision Committee) and finally by Rs. 5200-20200 with a grade pay of Rs. 2400/- causing a big loss of pay, at present.”

3. Perusal of the aforesaid relief in the writ application, the appellant's grievance is only for issuance of writ of mandamus under Article 226 of the Constitution. For issuance of writ of mandamus, there is no demand before the competent authority as is evident from the records relating to writ application. Apex Court in the case of *Mani Subrat Jain V. State of Haryana* reported in *(1977) 1 SCC 486* read with *Union Of India & Anr vs Arulmozhi Iniarasu & Ors* reported in *(2011) 7 SCC 397* held that for issuance of writ of mandamus under Article 226, there are two ingredients which are warranted namely statutory right/vested right followed by demand before the competent authority. The appellant could not apprise in the writ application insofar as demand before the competent authority. In the light of Apex Court decisions cited *supra*, the appellant has not made out a case so as to interfere with the order of the learned Single Judge.

4. Accordingly, appeal stands dismissed reserving liberty to the appellant to make necessary demand before the competent authority within a period of three months from the date of receipt of this order. If such demand is made, the competent



authority is hereby directed to pass a speaking order and  
communicate the same within a reasonable period of time.

**(P. B. Bajanthri, J)**

**( Rajiv Roy, J)**

GAURAV S./-

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