

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24702 of 2018

1. Madhurendra Kumar Singh son of Late Ram Nagina Singh, New Area Babu Bazar, Ara, Police Station- Ara Town, District-Bhojpur, Pin- 802301. presently posted as Junior Engineer (Technical Cell), Lokayukta Office, Bihar, Patna.
2. Uday Shankar Singh son of Late Sriram Singh, Resident of House No. S-24/6-9A-G8, Taktatpur, Orderly Bazar, Police Station- Varanasi, District-Varanasi.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
2. The Engineer-in-Chief, Water Resources Department, Government of Bihar, Patna.
3. The Under Secretary (Prabandhan), Water Resources Department, Government of Bihar, Patna.
4. The Principal Secretary, Finance Department, Government of Bihar, Patna.
5. The Secretary (Expenditure) Finance Department, Government of Bihar, Patna.
6. The Additional Secretary, Finance Department, Government of Bihar, Patna.
7. The Under Secretary, Lokayukta Office, Bihar, Patna.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Sanjay Kumar with Mr. Rahul Nath, Advocates
For the State	:	Mr. Binod Kumar Sinha, AC to GP8

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 12-12-2022

Heard learned counsel for the petitioners and learned counsel for the State.

2. The petitioners are aggrieved by order dated 06.12.2017, bearing Memo No. 4447 issued by the Under Secretary (Management) in the Water Resource Department



withdrawing the grade pay earlier granted in ग्रेड पे पी० बी०-3+6600/ and replacing the same with ग्रेड पे पी० बी०-3+5400/.

3. The petitioners' counsel submits that modification of the grade pay under 2nd Assured Career Progression (ACP for short) is to the petitioners' disadvantage and is likely to have effect of some consequential recovery on account of the payment made under the earlier granted higher pay band. The order visiting the petitioners with penal consequences, is not preceded by an opportunity in compliance with the principles of natural justice. It is submitted that under similar circumstances, this Court in CWJC No. 8146 of 2020 and analogous cases has directed as follows:-

“3. One of the contention in support of the aforesaid prayer is that the petitioners have not been provided notice or opportunity of hearing before re-fixation of pay and recovery. Therefore, the impugned communications are treated as a show cause notice to the respective petitioners. The petitioners are hereby directed to file their reply/explanation to the impugned show cause notice within a period of eight weeks from today. On receipt of petitioners' explanation to the show cause notice, the competent authority is hereby directed to pass a speaking order considering each of the contention to be raised by the petitioners in their explanations. Such final order be communicated to the petitioners within three months from the date of explanation.”



4. Since the petitioners' case is identical to the petitioners of CWJC No. 8146 of 2020 and analogous cases, relevant extract of which has been taken note of above, the petitioners are entitled to the same relief. The prayer is made by asserting that the petitioners case would come within the expression "covered matter" as per the Bihar State Litigation Policy 2011, Clause 4.C(1) thereof. Claiming disposal of the case under the same terms and conditions the petitioners' counsel has filed a motion slip.

5. The learned counsel for the State has given a written no objection for disposal of the writ application in terms of decision in CWJC No. 8146 of 2020 and analogous cases, taken note of above.

6. The writ application is, thus, disposed of in the same terms. The impugned order is treated as show cause notice to the petitioners.

7. The writ application is, accordingly, disposed of.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24-12-2022
Transmission Date	

