

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9121 of 2021

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1. Rajendra Singh S/o Late Ramashray Prasad Singh resident of village Bhairampur Nizammat, P.s. Dioriganj, District Saran - 841211.
 2. Raj Kishore Singh S/o Late Ram Nagina Singh resident of village - Fakuli, District- Chapra, Saran, Bihar - 841316.
 3. Bali Ram Singh S/o Late Ranjeet Singh resident of village - Dumari Govindpur, PO - Manpur, Damari Tola, District- Saran PIN- 841414.
 4. Sambhu Nath Singh S/o Late Nirsu Narayan Singh R/o village Pirauna, PO, Pirauna Distt. Saran, PIN - 841301.
 5. Rama Kant Prasad S/o Late Shri Raghunath Rai resident of village - Basdila, Sakaddi, Distt. Saran, Bihar - 841412.
 6. Nageshwar Prasad S/o Late Shri Yadu Rai resident of village - Piprahi, PO - Aphaar, District- Saran- 841402.
 7. Suresh Kumar Verma S/o Late Vidyanand Prasad resident of village - Paiga Mitrasen, PS - Bheldi, District- Saran PIN 841218.
 8. Dina Nath Gokul S/o Late Kedar Nath Sah Resident of village - ward no. 16, Chatradhari Bazar, district- Chhapra, Bihar - 841301.
 9. Prabhat Kumar Sinha S/o Late Sukh Ram Prasad Resident of village - Kuan Bichlipatti (Hanuman Garhi), District- Saran, PIN 841316.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health , Govt. of Bihar, Vikash Bhawan, Bailey Road, Patna 800001.
2. The Deputy Secretary, Department of Health, Govt. of Bihar, Vikash Bhawan, Bailey Road, Patna 800001.
3. The Director - in - chief, Health Services, Govt. of Bihar, Vikash Bhawan, Bailey Road, Patna 800001.
4. The Deputy Director, Health Services, Govt. of Bihar, Patna.
5. The Regional Director, Deptt. of Health, Saran division at Chapra.
6. The Civil Surgeon cum Chief Medical Officer, Saran, Chapra.
7. The Finance Secretary, Govt. of Bihar, Patna.
8. The Accountant General, Bihar at Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Suresh Pd Singh No.1
For the Respondent/s : Mr. Ajay Behari Sinha, GA-8

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

Date : 01-04-2022



Heard the learned counsels for the parties.

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

“i. for issuance of an appropriate writ/writs, order/s direction/s preferably in the nature of mandamus, commanding the respondents to grant notional benefits to the petitioners, commensurate with scale of pay like the other health workers like the ANMs, so that parity be maintained, under the reason that petitioners were acquiring even the better qualification, skill & training, than the AMNs, and their scale of pay was also same and similar in Rs. 220-315/- upto adoption of the 4th Pay Revision commission report, but afterwards the disparity developed without any rhyme and reason and the scale of Basic Health Workers (herein after referred to as “BHW”) made lesser than the ANMs, although basic qualification of ANMs was simple none matric/matric pass, whereas minimum qualification of the BHWs was minimum second division Matric with science, even then they were kept under the scale of Rs. 535-765/- only, whereas ANMs were kept under scale of Rs. 580-860/-, resultantly this disparity remained till the retirement of the petitioner, due which they have been paid less post retirement benefits and less pension was also fixed, even while tenure there was no promotion granted to the petitioner, due to which double loss is caused to them, which is against the equal remuneration act 1976 as well in violation of *Art. 14, 16(1) and Clause (d) of Article 39 of the constitution of India*, although any type of discrimination among same class of employees is unsustainable in law particularly, when the mode of employment, nature of job, quality of job is similar,



then such disparity could sustain in the eye of law, hence appropriate relief may be granted in view of the Hon'ble Apex court judgment rendered in Randhir Singh v. Union of India case as well as "Joginder Singh vs. State of Punjab and others" granting even all consequential benefits notionally to the petitioners directing the respondents to revised their pension accordingly.

ii. For directing the respondents to rectify the disparity in the pay scale of the petitioners since implementation of the 5th pay revision recommendation report and all consequential benefits may be accorded and granted to them at least notionally.

iii. For directing the respondents to accord the benefits notionally taking into consideration the subjective report/ recommendation of the Dy. Secretary to the Govt. of Bihar vide memo no. 461(23) dated 12/5/1988, transpiring that the petitioners were discharging grater responsibilities the other three categories of health workers, having the better qualification, skill & training, but were deprived from similar scale of pay like even the ANM gets, but same was remained unrectified till retirement, as a result petitioner remained deprived from the benefits for which they were entitled and there are several judicial pronouncements, held that when ***"nature, type and quality of the work done are same, then the principle Equal pay for equal work is implicit as guaranteed in Article 14, 16(1) and Clause (d) of Article 39 of the constitution of India"***. As such there is no impediment in according relief as claimed herein above.

iv. For granting all the consequential benefits notionally maintaining parity in scale of pay like the ANMs so that at least like pension and post retiral benefits may be given the petitioners like other health workers such ANMs and others.



v. For granting any other consequential relief/reliefs for which the petitioners may be found in this case.”

3. In the absence of demand before the competent authority in submitting a detailed representation read with establishing vested right with the petitioners, they are not entitled for the aforesaid relief.

4. Accordingly, the present petition stands dismissed in the light of Apex Court’s decision in case of *Mani Subrat Jain V. State of Haryana & Ors.* reported in *A.I.R. 1977 SC 276.*

5. Petitioners are at liberty to make necessary application/representation in furnishing service particulars read with relevant provision and relief sought in the present petition. On receipt of such representation, competent authority shall proceed to pass appropriate order.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	08.04.2022
Transmission Date	

