

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12899 of 2019

-
-
1. Ravindra Kumar Sinha Son of Late B.K.P. Sinha Ex Director, Resident of A-22, Magistrate Colony, PO- Ashiyana Nagar, Patna, Pin Code- 800025 (Bihar).
 2. Binod Kumar Son of Late Raj Banshi Das Deputy Director General (Retired), Resident of Flat No. B2, Dayal Enclave, A/8, Patrakar Nagar, Kankarbagh, Patna 800020 (Bihar).
 3. Hari Prakash Saxena Son of Late Chandra Babu Saxena Deputy Director General (Retired), Resident of C/o Sri Aditya Swaroop, B/2, New PHED Colony, Hinoo, Ranchi- 834002.
 4. Dr. T. Rajesham Son of Late T. Shankaraih Resident of Ram Nagari, P Ashiyana Nagar, Patna- 800025 (Bihar).

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Personnel Public Grievances and Pension, Department of Personnel and Training (DoPT), Government of India, 3rd Floor, Lok Nayak Bhawan, Khan Market, North Block, New Delhi- 110003.
2. The Director General, Geological Survey of India, 27, J.L. Nehru Road, Kolkata- 700016.
3. The Secretary, Ministry of Mines, Government of India, 3rd Floor, A Wing, Shastri Bhawan, New Delhi- 110001.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 4601 of 2015

-
-
1. Dr. Radha Nand Singh and Ors S/o - Late Basudeo Singh Director Retired, Geological Survey of India, Presently Residing At 7hf-6/20 HIG Flat, Sector - 1, Bahadurpur Housing Colony, P.S. - Agam Kuan, Patna - 800026
 2. Dr. A.K. Ghosh S/o Late Rabindra Lal Ghosh, Dy. Director General Retired, Geological Survey of India, Patna, Presently Resideing at Flat No. 3-1, Swastiock Apartment, 334, Jessore Road, Near Kalindi, Kolkata-700089
 3. Dr. Dulal Chandra Ghosh S/o Late Sunil Chandra Ghosh, Director Retired, Geological Survey of India, Presently At Flat No. 4 B, Ratan Deep Apartment, 64/1, Shahid Mangal Pandey Sarani, P.O. - Barrackpore, P.S. - Titagarh, Kolkata-20
 4. Braj Bhushan Prasad S/o - Krishna Ballabh Prasad Director, Geological Survey of India, Patna, Presently Residing at Vivek Vihar, Road No. 2 Hanuman Nagar, P.S. - Patrakar Nagar, Patna - Now Retired
 5. Dr. Depankar Mukherjee S/o - Late Kiran Pal Mukherjee, Superintending Geologist, Geological Survey of India, Patna, Presently Residing at 202, Manna Surti Complex, DS. - 5, Lohianagar, Kankarbagh, Patna-800020 Now Retired.
 6. A.K. Singh Son of Dr. D.P. Singh Senior Geologist Geological, Survey of



India, Patna Presently Residing at N-104, SBI Colony, Lohianagar, Kankarbagh, Patna - 20, Presently Superintending Geologist

7. M.W. Hque, Son of Late M.Z. Haque Senior Geologist, Geological Survey of India, Presently Residing at Garhauatola Lane, P.S. - Sultanganj, Patna Presently Superintending Geologist.
8. Sanjay Kumar Dutta, S/o Late Hari Narayan Dutta Senior Geologist, Geological Survey of India, Presently Residing at Flat No. 102, Karpura Savitri Nilayam, P.O. - Anisabad, P.S. - Gardanibagh, Patna-2, Presently, Superintending Geologist.
9. Indrajit Mitra S/o Late Bipin Mandhu Mitra Senior Geologist, Geological Survey of India, Patna, Presently Residing At Flat No. 41/42, Prakash Kung, Apartment, Kavi Raman Path, Boring Road, P.S. - Buddha Colony, Patna. Presently Superintending Geologist.

... .. Petitioner/s

Versus

1. The Union Of India
2. The Secretary, Ministry of Personnel, Public Grievances and Pension, Dept. of Personnel And Training
3. The Director General, Geological Survey of India, 27, 11 Nehru Road, Kolkata.
4. The Deputy Director General P, Geological Survey of India Govt. of India, 27, J.L. Nehru Road, Kol
5. The Director P and A, Geological Survey of India, Ministry of Mines, Govt. of India, 27 J.L. Nehru
6. The Dy. Director General, Geological Survey of India, OP-Bihar Lohianagar, Kankarbagh, Patna.
7. The Union Public Service Commission Through Its chairman, Dholpur House, Shahjahan Road, New Delhi.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 12899 of 2019)

For the Petitioner/s : Mr. Munna Pd Dixit (M.P. Dixit), Advocate
Mr. S.K. Dixit, Advocate
Mr. S.K. Chaubey, Advocate
Mrs. Swastika, Advocate

For the Respondent/s : Mr. K.N. Singh, ASG
Mr. Sujeet Kumar Sinha, CGC

(In Civil Writ Jurisdiction Case No. 4601 of 2015)

For the Petitioner/s : Mr. Kumar Kaushik

For the Respondent/s : Mr. Sujeet Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

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



Date : 17-08-2022

C.W.J.C. No. 12899 of 2019

Heard learned counsels for the parties.

2. In the instant writ petition, petitioners have assailed the order of the Central Administrative Tribunal, Patna Bench, Patna dated 06.03.2019 passed in O.A. No. 050/00261 of 2015.

3. The grievance of the petitioner is that petitioners are entitled to have the benefit of Non-functional Up-gradation for officers of organized Group-A services in PB-3 and PB-4 in terms of Official Memorandum dated 24.04.2009 Annexure-A/1 to the Original Application filed before the Central Administrative Tribunal. Office Memorandum reads as under:

**“No. AB.14017/64/2008-Estt.(RR)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training**

New Delhi, the 24th April, 2009

Office Memorandum

**Subject:- Non-Functional upgradation for
Officers of Organised Group ‘A’ Services in PB-3 and PB-4**

**Consequent upon the acceptance of the
recommendations of the Sixth Central Pay Commission, the
following orders are issued:-**



- (i) Whenever an Indian Administrative Services Officer of the State of Joint Cadre is posted at the Centre to a particular grade carrying a specific grade pay in Pay band 3 or Pay Band 4, the officers belong to batches of Organised Group A Services that are senior by two years or more and have not so far been promoted to that particular grade would be granted the same grade on non-functional basis from the date of posting of the Indian Administrative Service Officers in that particular grade at the Centre.**
- (ii) Grant of higher scale would be governed by the terms and conditions given in Annex-I.**
- (iii) Appropriate amendments in the Service Rules may also be carried out.**
- (iv) Establishment Division of this Department will issue orders from time to time, in consultation with the Establishment Officer, intimating the batch of the officers belonging to the Indian Administrative Service who have been posted at the Centre in the various grades of PB-3 and PB-4 as well as the date of posting of the first officers belonging to the batch.**

2. Grant of higher scale (i.e. pay band and/or grade-pay) under these instructions would be w.e.f. 1.1.2006, wherever due and admissible.

3. Hindi version will follow.”

4. Petitioners were stated to have submitted representation to extend Non-functional Up-gradation in terms of O.M. dated 24.04.2009. It is learnt that the same has been given effect to such of those persons who were similarly placed on par with the petitioners. However, the same has been denied



for no reasons.

5. Learned counsel for petitioners submitted that in order to identify the post held by each of the petitioner, he has pointed out Annexure-R/C of the counter affidavit, Office Memorandum No. 5/12/79/PP-II dated 31st July, 1982.

6. Learned counsel for the petitioners submitted that according to O.M. dated 31.07.1982 and 24.04.2009, petitioners are entitled to have the benefit of Non-functional Up-gradation for officers of organized Group-A services in PB-3 and PB-4. It is further contended that identical matter was decided by the Karnataka High Court in Writ Petition No. 45591 of 2012 (S-CAT) decided on 21.04.2014 and further the same was affirmed by the Apex Court.

7. In the light of these facts and circumstances, petitioners are hereby directed to submit a detailed representation apprising the competent authority in seeking Non-functional Up-gradation for officers of organized Group-A services in PB-3 and PB-4 in terms of order dated 24.04.2009. The competent authority is hereby directed to examine service particulars of the petitioners read with the O.M. dated 24.04.2009 and judicial pronouncements. Thereafter, proceed to pass a speaking order as to whether each of the petitioner is



entitled to have benefit of O.M. dated 24.04.2009 relating to extending the benefit of Non-functional Up-gradation for officers of organized Group-A services in PB-3 and PB-4 within a period of ten weeks from the date of receipt of this order.

8. Accordingly, C.W.J.C. No. 12899 of 2019 stands disposed of.

9. It is made clear that the impugned order dated 06.03.2019 of the Central Administrative Tribunal in the present petition passed in O.A. No. 050/00261 of 2015 would not come in the way of deciding petitioners' representation afresh.

10. **C.W.J.C. No. 4601 of 2015** is delinked. Petitioners are stated to have filed Interlocutory Application for bringing legal heirs of dead persons (petitioners) on record.

11. Registry is hereby directed to put up Interlocutory Application on 24.08.2022 with C.W.J.C. No. 4601 of 2015.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	23.08.2022
Transmission Date	

