

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13301 of 2015

1. Nishi Kant Srivastava Son of Late Dinanath Prasad Resident of MO. Rajbanshi Nagar, PO and District - Siwan.
2. Ramanand Singh Son of Late Bhola Singh Resident of Village - Mathanpura, PO - Pipara Narayan, PS - Pacharukhi, District - Siwan.
3. Smt. Mala Shrivastava Daughter of Sri Rama Shankar Prasad, Wife of Sri Priya Ranjan Shrivastava Resident of Mo - Shastri Nagar PO, PS and District - Siwan.
4. Smt. Abha Verma Daughter of Sri Dwarka Verma Resident of Mo - Rajbanshi Nagar, PO, PS and District - Siwan.
5. Arbind Kumar Chaubey S/o Sri Raj Narayan Chaubey Resident of Village and PO - Bajrahiya, District - Siwan.
6. Rabindra Kumar Son of Late Parasnath Prasad R/o village - Tewatha, PO and PS - Maharajganj, District - Siwan.
7. Shamshad Ali Son of Late Mahammad Ali R/o village and PO - Dharanda, District - Siwan.
8. Md. Anwar Alam Son of Md. Idris R/o Mo - New Colony, Purana Quila Pokhra, Sugar Mill Road, PO, PS and District - Siwan.
9. Atul Kumar Prasad Son of Late Narbadeshwar Prasad R/o Village - Husepur Nand via Basantpur, District - Siwan at present residing at Nai Basti Mahadeva, PO, PS and District - Siwan.
10. Azmat Ali Khan Son of Kabir Ali Khan Resident of village - Nijampur PO - Rampur Ke Tola, Anchal - Siswan, District - Siwan.
11. Masoom Raza Son of Md. Umar Resident of Village - Harihans, PO and PS - Hussainganj, District - Siwan.
12. Awadhesh Kumar Verma Son of Late Ramchandra Prasad R/o Village - Mahammadpur Patti PO - Kala Dumara District - Siwan.
13. Dilip Kumar Son of Late Radha Krishna Prasad Gupta Resident of Village - Naya Quilla, Mauleshwari Road, PO and PS and District - Siwan.
14. Bashir Ahmad Khan Son of Sri Sandal Khan Resident of Village - Nijampur, PO - Rampur Ke Tola, Anchal Siswan, District Siwan at present residing at H.N.p. 503, Islamia Nagar, Laxmipur, District - Siwan.
15. Subhash Singh Son of Sri Daroga Singh Resident of Village and PO - Faridpur, PS - Hussainganj, District - Siwan.
16. Ramashankar Prasad Son of Sri Chandra Deo Prasad Resident of Village - Alapur, PO - Pakwalia via Meerganj, PS - Barharia, District - Siwan.
17. Om Prakash Manjhi Son of Late Sheonath Manjhi Resident of village - Paharpur, PO - Sadarpur, PS - Barharia District - Siwan.
18. Om Prakash Prasad Son of Late Babu Lal Prasad Resident of village and PO - Chakra District Siwan.
19. Manoj Kumar Singh Son of Sri Sheo Kundal Singh Resident of village - Sarsar PS - Siwan Muffasil, District - Siwan.



20. Prabhat Kumar Singh Son of Sri Bhrigunath Singh Resident of village and PO - Amlori PS - Siwan Muffasil, District - Siwan.
21. Lal Babu Yadav Son of Babban Yadav Resident of village - Mandarapali PO - Merhi District - Siwan.
22. Kanhaiya Pandit Son of Late Ram Nagina Pandit resident of village - Loh Ganjar PO - Chhitanpur PS - Osaon District - Siwan.
23. Rajesh Kumar Srivastava Son of Sri Nayan Prasad Resident of village and PO and PS - Andar District - Siwan.
24. Dharmavir Sharma Son of Late Jitendra Nath Sharma resident of village, PO and PS - Andar District - Siwan.
25. Dinesh Chauhan son of Late Dharmadeo Chauhan Resident of village - Saidpur PO - Surharpur via Muhamadabad Gohana District - Mau UP.
26. Umashankar Pd. Kushwaha Son of Late Suryadeo Prasad Kushwaha Resident of village - Miyagundi PO - Daraila PS - Guthani District - Siwan.
27. Rameshwar Singh Son of Sri Harilal Singh Resident of village and PO - Itwan PS - Pachrukhi District - Siwan.
28. Sunil Kumar Prasad Singh Son of Asheshwar Prasad Singh Resident of village - Chandpur PO - Hariharpur Lal Garh, PS - Jamo Bazar District - Siwan.
29. Pravin Kumar Son of Late Chandradeo Singh Resident of village - Baluan PO - Pakwalia via Maharajganj PS - Daraunda District - Siwan.
30. Virendra Singh Son of Late Kapildeo Singh Resident of village and PO - Faridpur PS - Hussainganj District - Siwan.
31. Khush Mohammad Ansari Son of Shri Shahid Ansari Resident of village Mohammad Pur Patti PO - Kala Dumra via Mustafabad PS - GB Nagar, Tarwara District - Siwan at present resident of Makhdoom Sarai Dakhin Tola PO, PS and District - Siwan.
32. Sanjeev Kumar Son of Late Madan Mohan Sahay Resident of village - Bhatwalia PO - Barhan Gopal PS - Siwan Muffasil, District - Siwan.
33. Md. Hasmuddin Son of Md. Kasim Resident of village and PO - Sarari via Gorea Kothi PS - Gorea Kothi District - Siwan at present residing at M.M. Nagar PO, PS and District - Siwan.
34. Dharendra Kumar Yadav Son of Ram Kripal Yadav Resident of village - Hariharpur Lal Garh PO - Hariharpur PS - Barharia District Siwan at residing at Mo - Shaktinagar Mahadewa near Mahadewa OP, PO, PS and District - Siwan.
35. Sudarshan Singh Son of Sri Dahari Singh Resident of village - Kodai PO - Chanp via Pachrukhi PS - Pachrukhi District - Siwan.
36. Naqui Imam Son of Late Abu Mahammad Resident of village Mahpur PO - Faridpur PS - Hussainganj District - Siwan.
37. Binda Prasad Son of Late Dhruv Nath Prasad Resident of village - Kanhauli, PO - Hussepur Nand PS - Basantpur District - Siwan at present residing at Nai Basti Mahadewa PO, PS and District - Siwan.
38. Mahavir Prasad Son of Late Chandrika Prasad Resident of village - Parsa



- PO - Bagaejee via Barauli District - Gopalganj at present residing at Shastri Nagar Near Mahavir Mandir PO, PS and District - Siwan.
39. Priya Ranjan Srivastava Son of late Sita Ram Prasad Resident of Mo - Nai Basti Malviyanagar, PO, PS and District - Siwan.
 40. Jawed Akhtar Son of Sri Ashagar Hussain Residing at North of CS Office, Nai Bazar, PO, PS and District - Siwan.
 41. Amarendra Kumar Singh Son of Sri Rajendra Prasad Singh Resident of Shivaji Nagar, Nai Basti Fatepur PS - Siwan Muffasil District - Siwan.
 42. Shashi Kumar Prasad Son of Ramashish Prasad Resident of Mahaviri Path, Makhadum Sarai PO, PS and District - Siwan.
 43. Gauri Shankar Shah Son of Chunni Lal Shah Resident of village - Bararam PS - Hussainganj District - Siwan.
 44. Md. Mustaque Ansari Son of Late Hamid Ansari Resident of village Mitauli PO - Kumhari PS - Darauli District - Siwan.
 45. Prabhakar Yadav Son of Late Bhola Nath Yadav Resident of village - Mirpur PO - Nandpur Amwarhi, PS - Andar District - Siwan.
 46. Akhileshwar Prasad Son of Sri Krishna Prasad Resident of village - Shivpur Sakara, PS - Andar District - Siwan.
 47. Ram Pravesh Bhakta Son of Heeraman Bhakta Resident of village - Amnaura PO - Tiyya PS - Andar District - Siwan.
 48. Raghunath Rai Son of Sri Basistha Rai Resident of village and PO - Jamuanw PS - Sonbarsha District Siwan.
 49. Sunil Kumar Dubey Son of Late Upendra Nath Dubey Resident of village - Shahpur PS - Nawtan District - Siwan.
 50. Ramesh Kumar Singh Son of Late Swaminath Singh Resident of village Main Road, Mairwa, PO and PS - Mairwa, District - Siwan.
 51. Dinesh Kumar Son of Late Hari Krishna Prasad Resident of village and PO - Murera via Don, District - Siwan.
 52. Qurban Ali Son of Late Ramjan Ali Resident of village Dhamaur PO - Bhaisa Bazar, District - Gorakhpur UP at present residing at village - Mudera District - Siwan.
 53. Md. Rafique Ansari Son of Late Hadish Ansari Resident of village - Nai Basti Miskarahi, Mairwa PS - Mairwa District - Siwan.
 54. Binod Kumar Singh Son of Sri Jai Narayan Singh Resident of village Babhnanuli PO - Lagarpura PS - Mairwa District - Siwan.
 55. Dhruva Shankar Singh Son of Sri Vishwanath Singh resident of village - Imdipur, PO - Sakra, Anchal - Pachrukhi District - Siwan.
 56. Manoj Kumar Sahu Son of Late Ram Nath Sahu Resident of village and PO - Barkagaon PS - Sarai OP, District - Siwan.
 57. Shankar Singh Son of Sri Ram Nath Sahu Resident of village and PO - Barkagaon PS - Sarai OP, District - Siwan.
 58. Om Prakash Ram Son of Sri Saryu Ram Resident of village - Oriyan Tola Tarwara PO - Tarwara Siwanat hurmabad Purbi PS and District - Siwan.



59. Nand Kishore Manjhi Son of Late Jitan Manjhi Resident of village Mathia PO - Matiyari District - Gopalganj.
60. Rakesh Kumar Son of Sri Moti Lal Ram Resident of village - Balapur PO - Sadarpur PS - Barharia District - Siwan.
61. Hemant Narayan Ram Son of Sri Suraj Ram Resident of village and PO - Pachrukhi District - Siwan.
62. Vinay Kumar Son of Sri Kapildeo Prasad Resident of village and PO - Banso Pali PS - Siwan District - Siwan at present residing at Ramdeo Nagar Mahadeva PO, PS and District - Siwan.
63. Vyas Prasad Son of Sri Ram Lakhan Prasad Resident of village and PO - Banso Pali PS - Siwan District - Siwan.
64. Ashok Kumar Son of Sri Narendra Prasad Resident of village - Karanpura Tola Bansopali PO - Bansopali PS - Siwan District - Siwan at present residing at Mo. - Salempur Mahadewa PO, PS and District - Siwan.
65. Sheo Kumar Manjhi Son of Late Deo Sharan Manjhi Resident of village - Majhawalia PO - Chhitanpur Block Jiradei District Siwan at present residing at Mo. - Sri Nagar, Ayodhyapuri Gali No. 02, PO, PS and District - Siwan.
66. Brij Lal Manjhi son of Late Munshi Manjhi resident of village and PO - Bararam PS - Hussainganj District - Siwan.
67. Manoj Kumar Ram Son of Late Pheku Ram Resident of village - Sherahi PO - Bagaura PS - Daraunda District - Siwan.
68. Laldeo Prasad Son of Sri Munshi Prasad Resident of village - Pawalia PS - Siwan Mufassil District - Siwan.
69. Pramod Kumar Son of Late Raghunath Ram Resident of village - Balapur PO - Sadarpur PS - Barharia District - Siwan.
70. Bishwanath Ram Son of Late Bigan Ram Resident of village and PO - English PS - Mairwa District Siwan.
71. Chhote Lal Baitha Son of Sri Ramdatta Baitha Resident of village - Ramapali PO - Chakara District - Siwan.
72. Premchand Ram Son of Late Ganapati Ram Resident of village - Gaura PO and PS - Andar, District - Siwan.
73. Ganesh Ram Son of Sri Sharan Das Resident of village - Kushahara PO - Nandpur Amawari PS - Raghunathpur District - Siwan.
74. Gorakh Prasad Son of Shri Laldhar Prasad Resident of village - Sultanpur PO and PS - Raghunathpur District - Siwan.
75. Dharamadeo Baitha S/o Sri Jangi Lal Baitha Resident of village and PO - Tiyan, PS - Raghunathpur, District - Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Govt. of Bihar, Patna
4. The District Magistrate, Siwan.



5. The District Education Officer, Siwan.
6. The District Programme Officer Establishment, Siwan.
7. The DDO, Siwan block, Siwan.
8. The DDO Pachrukhi, block Siwan.
9. The BEO cum DDO Hussainganj block, Siwan.
10. The BEO cum DDO Mairwa block, Siwan.
11. The BEO cum DDO Darauli block, Siwan.
12. The BEO cum DDO Guthani block, Siwan.
13. The BEO cum DDO Nautan block, Siwan.
14. The BEO cum DDO Jeeradei block, Siwan.
15. The DDO Hasanpura block, Siwan.
16. The BEO cum DDO Andar block, Siwan.
17. The DDO Raghunathpur block, Siwan.
18. The BEO cum DDO Siwan block, Siwan.
19. The BEO cum DDO Daraunda block, Siwan.
20. The BEO cum DDO Maharajganj block, Siwan.
21. The BEO cum DDO Basantpur block, Siwan.
22. The BEO cum DDO Graiyakothi block, Siwan.
23. The BEO cum DDO Bhagwanpur block, Siwan.
24. The BEO cum DDO Lakarinabi Ganj block, Siwan.
25. The DDO Barharia block, Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bajarangi Lal, Adv
For the Respondent/s : Md. Harun Quareshi, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 19-12-2022 The petitioners have assailed the order of the District Programme Officer (Establishment), Siwan dated 24.06.2015, whereby the Drawing and Disbursing Officers (DDOs) of the blocks of Siwan district, have been directed to refix the salary, being paid to the petitioners, after excluding the 3 percent additional increment granted to them on their grade



pay of Rs. 4600 and Rs. 4800.

2. Learned counsel for the petitioners has drawn attention of the Court towards Annexure-4, notification dated 01.09.2011, to submit that the petitioners have been promoted from matric/inter trained pay band, carrying grade pay of Rs. 4600 to graduate trained pay band, carrying grade pay of Rs. 4600. Referring to Annexure 3, Clause 12 thereof, he submits that the same provides for the grant of 3 percent increment in the following manner.

12. दिनांक 01.01.2006 को या उसके बाद

प्रोन्नति पर वेतन निर्धारण :-

पुनरीक्षित वेतन संरचना में एक ग्रेड पे से दूसरे ग्रेड पे में प्रोन्नति होने के मामले में वेतन निर्धारण निम्न प्रकार किया जायेगा :- *(emphasis mine)*

पे बैंड में प्राप्त वेतन एवं वर्तमान ग्रेड पे के योग का 3% राशि (एक वेतनवृद्धि के बराबर) की गणना की जायेगी तथा उससे अगले दस में पूर्णांकित कर दिया जायेगा। इसे पे बैंड के वर्तमान वेतन में जोड़ दिया जायगा (कडिका 4(v) में यथा परिभाषित) उसके बाद पे बैंड के इस वेतन के अतिरिक्त प्रोन्नति के पद का समस्थानी ग्रेड पे स्वीकृत किया जायेगा। प्रोन्नति के जिन मामलों में पे बैंड में भी परिवर्तन होता हो, समान तरीका, अपनाया जायेगा। यदि वेतनवृद्धि जोड़ने के बाद भी पे बैंड में



वेतन उच्चतर पे बैंड, जिसमें प्रोन्नति दी जा रही हो, न्यूनतम से कम हो तो पे बैंड के न्यूनतम तक वेतन बढ़ा दिया जायेगा।

टिप्पणी- एक ग्रेड से दूसरे ग्रेड में प्रोन्नति होने पर / ए०सी०पी० के अधीन वित्तीय उन्नयन होने पर किसी सरकारी सेवक को मौलिक नियमावली के नियम -22(i) ए०(i) के अधीन विकल्प है कि वह उच्च पद पर अपना वेतन प्रोन्नति की तिथि से अगली वेतनवृद्धि की तिथि अर्थात् वर्ष की पहली जुलाई से निर्धारित कराये।

3. The learned counsel for the State has submitted that even if the petitioners' case is admitted, then it is not the case of the petitioners that they have been promoted from one grade pay to the other. From bare perusal of Clause 12 of Annexure 3, which is a resolution dated 21.01.2010 of the Finance Department, Government of Bihar, it is apparent that 3 percent increment was to be given only in case of promotion from one grade pay to the other, which is not the case here.

4. In view thereof, the direction dated 24.06.2015 to correct this error arising out of wrong grant of the 3 percent of increment, which decision has been taken within a short span of time, i.e. about 1½ years after the undue benefit was granted on 31.10.2013, does not require any interference.

5. Considering the submissions advanced on behalf of



the parties, and on perusal of the documents relied upon, this Court finds that the petitioners claim that they have been promoted from Matric/Inter trained pay to Graduate trained pay, but in the same Grade Pay of Rs. 4,600. Petitioners do not claim that they have been promoted from one grade pay to the other. That being a pre-requisite for grant of 3 percent increment in terms of Clause-12 of resolution dated 21.01.2010, the petitioners are not in a position to claim the said increment, and/or to raise any grievance regarding correction of their pay scales by excluding the 3 percent increment, accordingly.

6. Since the same has been done within a short span of time and the specific stand of the respondents based on paragraph 7 of the counter affidavit is not denied or disputed by filing any rejoinder or reply, whatsoever, this Court does not find any reason to interfere with the impugned order.

7. Writ petition is dismissed.

(Madhuresh Prasad, J)

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