

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20160 of 2021

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1. Shyam Bihari Sharma, Son of Late Ram Bachan Sharma, Resident of Mohalla - Shivpuri, Gali No. 4, Ward No. 7, Raghunathpur, P.O. Motihari, P.S. Turkaulia, District - East Champaran at Motihari, presently posted as Junior Engineer, Water Resources Department, Quality Control (Irrigation Creation) Division, Siwan.
 2. Bhagwan Sharma, Son of Late Sitaram Sharma, Resident of Mohalla - Chhota Telpa, Rawal Tola, P.O. Chapra, P.S. Chapra Town, District - Saran at Chapra, Presently posted as Junior Engineer, Water Resources Department, Quality Control (Irrigation Creation) Division, Siwan.
 3. Shambhu Prasad Gupta, Son of Late Ramnagina Prasad, Resident of 514, Ambedkar Nagar, Ward No. 1, Deoria, P.O. Deoria, P.S. Sadar Kotwali Deoria, District- Deoria (Uttar Pradesh), presently posted as Junior Engineer, Water Resources Department, Quality Control (Irrigation Creation), Division, Siwan.
 4. Sanjay Kumar Singh, Son of Ranvijay Bahadur Singh, Resident of C-124/704, Jatepur North, Near Moti Lal Building, Hydil Colony, Gorakhpur, P.O. and P.S. Forakhpur, District- Gorakhpur (Uttar Pradesh), presently posted as Junior Engineer, Water Resources Department, Quality Control (Irrigation Creation) Division, Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Engineer - in -Chief, Water Resources Department, Government of Bihar, Patna.
4. The Under Secretary (Prabandhan), Water Resources Department, Government of Bihar, Patna.
5. The Superintending Engineer, Water Resources Department, Quality Control (Irrigation Creation) Circle, Patna.
6. The Executive Engineer, Water Resources Department, Quality Control (Irrigation Creation) Division, Siwan.
7. The Principal Secretary, Finance Department, Government of Bihar, Patna.
8. The Secretary (Expenditure), Finance Department, Government of Bihar, Patna.
9. The Additional Secretary, Finance Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S. B. K. Manglam, Advocate Mr. Awnish Kumar, Advocate
For the Respondent/s	:	Mr. Harish Kumar (GP-8)



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

Date : 05-01-2022

This matter is heard via video conferencing due to circumstances prevailing on account of COVID-19 Pandemic.

2. Heard learned counsel for the parties.

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

(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 05.12.2017 passed by the Respondent no.4 and contained in his memo no.4447 dated 06.12.2017, whereby and where under the Respondent no.4 has been pleased to direct for modification of the different letters of the benefits of second Modified Assured Career Progression in the pay-scale of Rs.PB-3+6600 Grade Pay and in lieu thereof they have been granted the modified pay scale of Rs.PB-3 + 5400 Grade Pay in view of the letter of the Finance Department contained in letter no.3655 dated 10.04.2015.

(II) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the letter dated 10.04.2015 passed by the Respondent no.9 and contained in his letter no. 3655 dated 10.04.2015, whereby and where under he has informed the Respondent no.2 that in view of the Finance Department letter no.504 dated 16.01.2014, the pay scale of Rs.PB-3 + 5400 Grade Pay would be a financial progression for the Government Servants working in PB-2 + Grade Pay 4800 or 5400 and thus



in the case of Junior Engineers PB-2 + Grade Pay 5400 would be the scale of first Assured Career Progression and PB-3 + Grade Pay 5400 would be the scale of second Modified Assured Career Progression on the ground that if all the writ petitioners were appointed as a Junior Engineer much before 01.01.2006 for whom there was a separate recommendation for pay-fixation as contained in letter no.630 dated 21.01.2010, the case of the petitioners would not be covered by the aforesaid letter of Finance Department which can be applied only in case of other Government Servant, joining their services on or after 01.01.2006.

(III) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the letter dated 03.11.2021 issued under the signature of the Respondent no.6 and contained in his letter no.253 dated 03.11.2021, whereby and where under the Respondent no.6 has sought guidelines from the Respondent no.5 for recovery of the excess amount drawn by the petitioners in view of the letter of the department contained in letter no.4447 dated 06.12.2017.

(IV) For a declaration that since the petitioners were entitled for the benefits of first Assured Career Progression much before the introduction of Modified Assured Career Progression Scheme Rules, 2010 and, therefore, in view of the amended provisions of Assured Career Progression Rules, 2003 amended in 2008, the petitioners were entitled for the pay-scale of Assistant Engineer in the scale of Rs.6500-10,500 (PB-2 + Grade Pay 5400 with effect from 01.01.2006), the aforesaid letter of the Finance Department cannot be



applied in the case of the petitioners for reduction of their scale while they were duly granted by way of benefits of second Modified Assured Career Progression.

(V) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities for grant of benefits of third M.A.C.P. to the petitioner nos. 1, 2 and 4 with effect from the date when they have completed 30 years of their service from the date of their initial appointment as Junior Engineer in the Water Resources Department, Government of Bihar, Patna.

(VI) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioners would be found entitled under the facts and circumstances of the case.”

4. Learned counsel for the petitioners has submitted that the present petition is similar to that of the order passed in C.W.J.C. No. 8146 of 2020 and connected matter decided on 22.11.2021 vide Annexure-13 furnished along with I.A. No. 1 of 2021.

5. The same has not been disputed by the learned counsel for the State.

6. Accordingly, order dated 05.12.2017 read with 06.12.2017 and letters dated 10.04.2015 and 16.01.2014 are set aside. The petitioners shall be extended benefit in the light of the aforesaid decision of this Court.



7. The present petition stands allowed.

8. If the respondents have already recovered any amount from the petitioners, the same shall be refunded to them in accordance with law.

(P. B. Bajanthri, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12 .01.2022
Transmission Date	NA

