

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13990 of 2018

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1. Roushan Kumar Jha and Ors S/o Late Amrendra Jha, Resident of Village-Brahmpura, P.S. Aren, District-Madhubani.
 2. Winay Kumar Mishra, S/o LKate Chandrika Mishra, Resident of Village-Nautan, P.S. Nautan, District-Bettiah, West Champaran.
 3. Mukesh KUMar, S/o Late Raghunath Prasad, Resident of Village-P.S. Chiraiya, District-East Champaran.
 4. Ritesh Kumar, S/o Late Surendra Prasad Shrivastava, Resident of Village-Near Brahmsthan, New Chandmari, Town Motihari, District-East Champaran.

... .. Petitioners

Versus

1. The State Of Bihar
2. The Principal Secretary, Finance Department, Government of Bihar, Patna.
3. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
4. The Secretary Expenditure, Department of Finance, Government of Bihar, Patna.
5. The Under Secretary, Water Resources Department, Government of Bihar, Patna.
6. The Chief Engineer, Flood Control and Water Distribution, Water Resources Department, Muzaffarpur.
7. The Chief Engineer, Water Resources Department, Balmiki Nagar, West Champaran.
8. The Executive Engineer, Sikrahana Embankment Division, Motihari, East Champaran.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Siya Ram Shahi, Adv. Ms. Shally Kumari, Adv.
For the State	:	Mr. Sanjay Kumar, AC to AAG-4

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 17-04-2023 Heard Mr. Siya Ram Shahi assisted by Ms. Shally Kumari, learned counsel for the petitioners and Mr. Sanjay Kumar, learned AC to AAG-4 for the State.

Petitioners, in the present case, are seeking the



following reliefs:-

“(i) For issuance of an appropriate writ in quashing the Memo No. 5483 dated 11.07.2016 issued under the signature of Principal Secretary, Department of Finance contained in Annexure-6.

(ii) For issuance of an appropriate writ in quashing the letter no. 2897 dated 25.11.2017 issued by the Chief Engineer, Flood Control and Water Distribution, Water Resources Department, Muzaffarpur consequence to the Memo No. 5483 dated 11.07.2016 contained in Annexure-10.

(iii) For issuance of an appropriate writ in quashing the letter no. 1465 dated 01.12.2017 issued by the Executive Engineer, Sikrahana Embankment Division, Motihari, East Champaran whereby and whereunder in the light of Memo No. 5483 dated 11.07.2016 (Annexure-6) and Letter No. 2897 dated 25.11.2017 (Annexure-10) the scale of the petitioner given vide Letter No. 5316 dated 08.05.2015 (5200-20200, Grade Pay 2400) has been cancelled with an order of Recovery contained in Annexure-11 series.

(iv) For issuance of an appropriate writ commanding the respondent to restore the scale of the petitioners in Rs. 5200-20,200 Grade Pay 2400 and its consequential scale in terms of the Finance Department Memo No. 3111 dated 25.03.2015.

(iv) For any other relief or reliefs for which the petitioner is entitled under law as well as on the facts of the case.”

It is the case of the petitioners that they were appointed as Lower Division Clerk (Accounts) on compassionate ground by the Chief Engineer, Water Resources



Department, Government of Bihar. Petitioner nos. 1 to 3 submitted that they were directed to give their joining in the office of Executive Engineer, Sikarhana Embankment Division, Motihari, East Champaran. Petitioner no. 4 was directed to give his joining in the office of Triveni Canal Division, Raxaul. They joined there and thereafter all the four petitioners are working.

In the nature of the disputes with respect to their scale of pay and the grade pay, this Court vide its order dated 05.04.2023 directed the Principal Secretary, Department of Finance, Govt. of Bihar and the Principal Secretary, Water Resources Department, Govt. of Bihar to sit together and consider the case of the petitioners and others. They were required to take a view in the light of the judgment of the Hon'ble Division Bench of this Court in the case of **Chhotu Singh Vs. State of Bihar & Ors.** (LPA No. 206 of 2016). The order dated 05.04.2023 passed by this Court reads as under:

“This is yet another case in which learned counsel for the petitioners submits that the case would be covered by the earlier Judgments of this Court in the case of **Binit Kumar & Ors. Vs. The State of Bihar & Ors.** (CWJC No. 9921 of 2017) and in the case of **Chhotu Singh Vs. State of Bihar & Ors.** (LPA No. 206 of 2016). This Court has been informed that the Judgment of the Hon'ble Division Bench of this Court in LPA No. 206 of 2016 was challenged before the Hon'ble Apex Court in SLP (C) No. 2982 of 2017 and the same was dismissed vide judgment and order passed on 10.02.2017.

Recently in the batch of writ applications, the lead case being CWJC No. 14709 of 2022 and CWJC No. 6994 of



2020, this Court had occasion to consider those writ applications in the light of the Judgments of this Court as mentioned above.

Learned counsel for the petitioners submits that the petitioners were also given benefit of Finance Department's Resolution No. 3111 dated 25.03.2015 and they were placed in the pay scale of Rs. 5200-20,200/- with Grade pay of Rs. 2400/- which was the revised scale of Rs. 4000-6000/-.

To this Court, it appears that the Departments are not acting in terms of the Bihar Litigation Policy which is burdening the Court repeatedly with identical kind of cases. In such circumstance, this Court directs the Principal Secretary, Finance Department, Government of Bihar and the Principal Secretary, Water Resources Department, Government of Bihar to sit together within a period of one week from today and take a view as to why all such matters which are covered by the Judgment of the Hon'ble Division Bench of this Court be not resolved in the light of the Judgment of this Court which has already attained finality. The present case be also considered accordingly.

Let the views of both the Principal Secretaries who are Respondent Nos. 2 and 3 in the present case be placed on the record immediately thereafter.

List this matter on 17.04.2023 under the same heading maintaining its position."

Today a counter affidavit has been filed. Paragraph '6'

of the counter affidavit reads as under:-

"6. That it is stated that in compliance of the aforesaid order dated 05.04.2023, the Additional Chief Secretary, Finance Department, Bihar and the Secretary, Water Resources Department, Bihar sat together on 12.04.2023 and after due consideration of the matter, they found that the case of the petitioners appears to be identical to the case of Binit Kumar and others (C.W.J.C. No. 9921 of 2017). As such It has been decided to extend the benefit of pay scale of Rs. 4000 – 6000/- (Grade Pay Rs. 2400/-) to the petitioners as extended to Binit Kumar and others and to dispose of other matters pending in the Water Resources Department after examining their similarity to the case of Binit Kumar and others."



Learned counsel for the State submits that in the light of the decision as contained in paragraph '6' of the counter affidavit, the consequential order shall be issued by the competent authority within a period of four weeks from today.

Learned counsel for the petitioners submits that in view of the statements made in paragraph '6' of the counter affidavit, the impugned orders are liable to be set-aside.

There is no objection to the same. In such circumstance, the impugned orders as contained in Annexures '6', '10' and '11' are hereby set-aside.

The respondents are directed to act in terms of their stand recorded in paragraph '6' of the counter affidavit which has been quoted above. The consequential order must be issued within four weeks from today.

This Writ Application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J.)

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