

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6661 of 2021

1. Kumar Chandralok Son of Late Ram Charitra Prasad, R/o Shivajinagar, Khandakpar, P.O. and P.S.-Bihar Sharif, District-Nalanda, presently working as Clerk in (plus 2) High School Amrawati, Jamsari, P.S.-Bind, District-Nalanda.
2. Ritesh Kumar, Son of Late Mahadeo Prasad, R/o Village-Goitya, P.O. and P.S.-Asthawan, District-Nalanda, presently working as Clerk in Nalanda Collegiate (plus 2) School Bihar Sharif, P.S.-Bihar Sharif, District-Nalanda.
3. Braj Bhushan Raman, Son of Late Shyam Kishore Prasad, R/o Village-Meyar, P.O.-Kairi Meyar, P.S.-Noorsarai, District-Nalanda, presently working as Clerk in R.B. (plus 2) High Schol, Nalanda, P.S. and District-Nalanda.
4. Om Prakash, Son of Late Nawal Kishor Prasad, R/o Village and P.O.-Gopalbad, P.S.-Sarmara, District-Nalanda, presently working as Clerk in High Schol Gaivi - Itasang, Rahui, P.S.-Rahui, District Nalanda.
5. Sudarshan Kumar, Son of Late Genda Ram, R/o Village-Narhar Bigha, P.O.-Ghoshawan, P.S. and District-Nalanda, presently working as Clerk in S.M.G.R. (plus 2) Vidyalay, Gurusharanpur, Ben, P.S.-Ben, District-Nalanda.
6. Sanjeev Kumar, Son of Late Arvind Kumar, R/o Village and P.O.-Asta, P.S.-Tharthari, District-Nalanda, presently working as Clerk in M.D.N. High Schol, Barimath, Parwalpur, P.S.-Parwalpur, District-Nalanda.
7. Santosh Kumar Singh, Son of Krishna Kumar Singh, R/o Mohalla-Daroga Kuan, P.O. and P.S. and Hilsa, District-Nalanda, presently working as Clerk in Ram Babu (plus 2) High School, Hilsa, P.S.-Hilsa, District-Nalanda.
8. Amarjeet Patel, Son of Late Chandeshwar Prasad, R/o Village-Saindih, P.O.-Pyarepur, P.S.-Giriyak, District-Nalanda, presently working as Clerk in Ram Babu (plus 2) High School, Hilsa, P.S.-Hilsa, District-Nalanda.
9. Indra Bhushan Sinha, Son of Late Arjun Prasad, R/o Village-Daya Bigha, P.O.-Madhar, P.S.-Ben, District-Nalanda, presently working as Clerk in (plus 2) Magadh High School, Oknawan, P.S.-Deepnagar, District-Nalanda.
10. Rajmani Kumar, Son of Late Kamla Prasad, R/o Mohalla-Mansurnagar, P.O. and P.S.-Sohsarai, District-Nalanda, presently working as Clerk in Bari Pahari Rastriya (plus 2) School, Bihar Sharif, P.S.-Laheer, District-Nalanda.
11. Ranjeet Kumar, Son of Late Muneshwar Prasad, R/o Village-Nagawan, P.O.-Tiuri, P.S.-Manpur, District-Nalanda, presently working as Clerk in D.P. Roy (plus 2) High School, Deepnagar, Korai, P.S. Deepnagar, District-Nalanda.
12. Rajeev Kumar, Son of Late Chandrashekhar Azad, R/o Village and P.O.-Andhana, P.S.-Noorsarai, District-Nalanda, presently working as Clerk in Sri Gandhi (plus 2) High Schol, Silao, P.S.-Silao, District-Nalanda.
13. Jyoti Kumari, D/o Late Mishri Rajak, R/o Mohalla-Mogalkuan, Etwari Bajar, P.S. Bihar Sharif, District-Nalanda, presently working as Clerk in Bapu High School, Chandi, P.S.-Chandi, District-Nalanda.

... .. Petitioner/s

Versus



1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Vikas Bhawan, New Secretariat, Patna.
2. The Director, Secondary Education, Department of Education, Govt. of Bihar, Vikas Bhawan, New Secretariat, Patna.
3. The Regional Deputy Director of Education, Patna Division, Patna.
4. The D.E.O., Department of Education, Nalanda, Biharsharif.
5. The D.P.O. (Establishment), Education Department, Nalanda, Biharsharif.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Purushottam Kumar Jha

Mr. Narendra Kumar Sinha

Mr. Avanindra Kumar Jha

For the Respondent/s : Mr.Prabhakar Jha (Gp27)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 28-11-2023 1. The issue relates to grant of pay scale of Rs. 4000-6000/- to the petitioners, who are working as Clerk in the Education Department. It is not disputed between the parties that similar issue was decided by a Division Bench of this Court in LPA No. 167 of 2016 vide order dated 23.06.2017 directing the respondents to pay the benefit of pay scale of Rs. 4000-6000/- to the writ petitioners with effect from the date of appointment. It is also not disputed that petitioners are similarly situated to those writ petitioners who were party to LPA No. 167 of 2016 as respondents.

2. Learned counsel for the petitioners submits that the order passed by the LPA Court is being complied by the State



authorities subject to final outcome of Civil Review No. 236 of 2019 preferred by the State which would be evident from the letter bearing no. 1620 dated 23.01.2023 & 3628 dated 21.04.2023 issued by the General Administration Department, Govt. of Bihar as well as Finance Department, Government of Bihar respectively. Learned counsel further submits that a Co-ordinate Bench of this Court taking into consideration various orders passed by different Benches of this Court has granted similar relief to similarly situated persons in C.W.J.C. No. 188 of 2021 by order dated 09.07.2021.

3. On the other hand, learned counsel for the State submitted that two conflicting orders were passed by two Division Benches of this Court, one in favour of similarly situated petitioners and another in favour of the State. The two LPAs are LPA No. 167 / 2016 in which relief was granted to the petitioners and another is LPA No. 100 of 2012 in which order was passed in favour of the State. In view of two conflicting orders passed by LPA Courts, a Single Bench of this Court referred the matter before Larger Bench where the civil review filed by the State along with the two LPAs are pending consideration. He further submits that a civil review application has been filed against the order passed by LPA Bench of this Court in LPA No.



167 / 2016. Accordingly, submission is that this writ petition be listed after disposal of Civil Review No. 236 of 2019.

4. I have heard learned counsel for the parties and have gone through the materials on record. It appears that several Benches of this Court have passed orders in favour of similarly situated petitioners claiming pay scale of Rs. 4000-6000/- previously on the basis of Division Bench judgment of this Court passed in LPA No. 167 of 2016.

5. It is true that civil review preferred against the aforesaid judgment is pending before Larger Bench however the State in its General Administrative Department as well as Finance Department has come out with letters to comply with the order passed in LPA No. 167 of 2016 subject to final outcome of Civil Review No. 236 of 2019. Recently also by order dated 08.11.2023 District Magistrate, Kaimur (Bhabhua) has complied with the directions of the LPA Bench granting pay scale of Rs. 4000-6000/- to similarly situated persons subject to final outcome of Civil Review No. 236 of 2019 pending before Larger Bench.

6. Bihar State Litigation Policy, 2011 in its clause 4.C(1) says as follows:

“4.C(1). A good number of cases are from the category of similar cases. Each Government Department will aim



to consider and settle the claim of the representationist / applicant employee / citizen, if the claim is found covered by any decision of the Court. Many service matters of this nature, can be disposed of at the level of the Department itself without compelling the litigant to come to the Court. In this manner, the Government Departments would be acting as efficient litigants.”

7. Taking into consideration the fact that State Government has already come out with the decision to comply with the order passed in LPA No. 167 / 2016 subject to the final outcome of civil review and the litigation policy of the State Government and various orders passed by other Benches of this Court granting similar relief to similarly situated persons, in my opinion the writ application can be disposed of granting similar relief to the writ petitioners in terms of the order passed by Division Bench of this Court in LPA No. 167 of 2016.

8. Accordingly, the writ petition stands disposed of exactly in terms of the order passed in LPA No. 167 of 2016. This however shall be subject to the final outcome of the result of Civil Review No. 236 / 2019 pending before Larger Bench.

9. It is made clear that benefit to the petitioners shall be granted subject to filing undertaking by them before the concerned authorities regarding refund of the amount received by them if the issue pending before Larger Bench / and / or Civil



Review No. 236 / 2019 goes in favour of the State Government.

(Anil Kumar Sinha, J)

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