

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6994 of 2020**

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1. Umesh Kumar Son of Late Kapil Deo Pandit At Executive Engineer, NH Division- 2, Bihar Sharif.
2. Lakshman Kumar Son of Late Sadhu Sharan Gupta At Superintending Engineer, NH Works Circle, Patna.
3. Umesh Kumar Chaudhary Son of Late Aditya Chaudhary At Superintending Engineer, NH Works Circle, Patna.
4. Markandey Sharma Son of Late Sidh Nath Sharma At Superintending Engineer, NH Works Circle, Patna.

... .. Petitioners

Versus

1. The State of Bihar through the Chief Addl Secretary, Road Construction Department, Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Bihar, Patna.
3. The Deputy Secretary, Road Construction Department, Bihar, Patna.
4. The Engineer-in- Chief-cum- Special Secretary, Road Construction Department, Bihar, Patna.
5. The Chief Engineer, Road Construction Department, Bihar, Patna.
6. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
7. The Principal Secretary, General Administration Department, Bihar, Patna.
8. The Superintending Engineer, National Highway, Works Circle, Road Construction Department, Bihar, Patna.
9. The Executive Engineer, National Highway Division, Road Construction Department, Bihar Sharif (Nalanda).
10. The Executive Engineer, National Highway Division No. 2, Road Construction Department, Bihar Sharif (Nalanda).

... .. Respondents

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with

**Civil Writ Jurisdiction Case No. 8157 of 2021**

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Anil Kumar Son of Late Rameshwar Choudhary Resident of Mohalla-  
Mansha Ram Ka Akhara, Loha Ka Pool, P.O.- Patna City, P.S.- Mehendi Ganj,  
Distt- Patna.

... .. Petitioner

Versus

1. The State of Bihar through Secretary, Minor Water Resources Department, Govt. of Bihar, Patna.
2. The Secretary, Minor Water Resources Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Engineer-in-Chief, Minor Water Resources Department, Govt. of Bihar, Patna.



5. The Chief Engineer, Planning Establishment and Ground Water (Minor Water Resources Department, Govt. of Bihar, Patna).
6. The Chief Engineer, Minor Water Resources Department, Govt. of Bihar, Patna.
7. The Superintending Engineer, Minor Irrigation Circle, Patna.

... .. Respondents

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with

**Civil Writ Jurisdiction Case No. 9621 of 2021**

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1. Rakesh Raushan son of late Awadhesh Kumar resident of Village- Belahi, Post Office- Lohat, P.S.- Pandaul, Dist- Madhubani, Pin- 847231.
2. Vijay Kumar Singh Son of Late Ranjan Dhari Singh R/o- Jayanti- 21, Vastu Vihar Colony, Village- South Ekauna, P.S.- Udwant Nagar, Ekauna, Bhojpur, Pin- 802210.
3. Rakesh Kumar Son of late Arbind Kumar Verma, R/o- Ganga Vishnu Nagar, Road No- 3A, Nawratanpur, Postal Park, Patna, Pin- 800001.
4. Ram Ashlok Singh son of Late Devnarayan Singh R/o- Vill- Bichachhan, PO- Malwan, P.S.- Khudawan, Block- Obra, Dist- Aurangabad, Pin- 824124.

... .. Petitioners

Versus

1. The State of Bihar through Principal Secretary, Minor Water Resources Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Minor Water Resources Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Engineer-in- Chief, Minor Water Resources Department, Govt. of Bihar, Patna.
5. The Chief Engineer, (Planning, Monitoring, Ground Water), Minor Water Resources Department, Govt. of Bihar, Patna.
6. The Chief Engineer, Minor Water Resources Department, Govt. of Bihar, Patna.
7. The Superintending Engineer, Minor Irrigation Circle, Patna.
8. The Executive Engineer, Minor Irrigation Division, Ara.
9. The Executive Engineer, Minor Irrigation Division, Patna.
10. The Executive Engineer, Minor Irrigation Division, Nawada.

... .. Respondents

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with

**Civil Writ Jurisdiction Case No. 10606 of 2021**

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1. Arun Kumar Jha Son of Shiv Shankar Jha resident of vill and Post- Koshi Colony, P.s.- K.Haat, Purnea, Distt.- Purnea
2. Umesh Kumar Son of Mukhlal Mandal resident of vill- Simariya, Post and via- Pothiya, P.s. and District- Katihar



3. Vinay Kumar Mishra Son of Shiv Chandra Mishra resident of vill and mohalla- Subhashpalli, Post and disst.- Kishanganj
4. Prashant Kumar Mandal son of Sahdeo Prashad Mandal resident of vill- Madhura South, Post- Narpatganj, P.s.- Narpatganj, Distt.- Araria

... .. Petitioners

Versus

1. The State of Bihar through Principal Secretary, Water Resources Department, Govt. of Bihar, Patna
2. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna
4. The Engineer-in-Chief, Water Resources Department, Govt. of Bihar, Patna
5. The Chief Engineer, Flood Control and Drainage, Water Resources Department, Katihar
6. The Superintending Engineer, Flood Control and Drainage Circle, Purnea
7. The Superintending Engineer, Flood Control and Drainage Circle, Bhagalpur
8. The Superintending Engineer, Flood Control and Drainage Circle, Katihar
9. The Executive Engineer, Flood Control and Drainage Division, Purnea
10. The Executive Engineer, Flood Control Division, Bounsi
11. The Executive Engineer, Flood Control Division, Kadhagola (Katihar)

... .. Respondents

with

**Civil Writ Jurisdiction Case No. 13038 of 2021**

Abhishek Kumar Son of Pranay Kumar Mishra, Resident of Ray Jai Krishna Road, near Sinha Paper Works, Gurhatta, Patna City, Patna.

... .. Petitioners

Versus

1. The State of Bihar through the Secretary, Building Construction Department, Govt. of Bihar, Patna.
2. The Secretary, Building Construction Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Secretary (Expenditure), Finance Department, Government of Bihar, Patna.
5. The Engineer - in - Chief, Building Construction Department, Govt. of Bihar, Patna.
6. The Chief Engineer, Building Construction Department, Govt. of Bihar, Patna.
7. The Superintending Engineer, Construction Circle, Building Construction Department, Bishwasharaiya Bhawan, Patna.
8. The Executive Engineer, Construction Division No. 1, Building Construction Department, Patna.

... .. Respondents



with  
**Civil Writ Jurisdiction Case No. 13367 of 2021**

Rakesh Rai Son of Late. Paras Nath Rai, R/o Muhalla- Near Shamshanghat  
More, Charitravan, Teacher Colony, P.S.- Buxar (T), Dist.- Buxar.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Finance Department, Government of Bihar, Patna.
3. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
4. The Under Secretary, Water Resources Dept., Govt. of Bihar, Patna.
5. The Chief Engineer, Laghu Jal Sansadhan Dept. Govt. of Bihar, Patna.
6. The Additional Secretary, Laghu Jal Sansadhan Dept. Govt. of Bihar, Patna.
7. The Superintending Engineer, Laghu Sinchai, Anchal, Patna.
8. The Executive Engineer, Laghu Sinchai, Pramandal, Buxar.

... .. Respondents

**Appearance :**

(In Civil Writ Jurisdiction Case No. 6994 of 2020)

For the Petitioner/s : Mr.Siyaram Pandey, Advocate

For the Respondent/s : Mr.Uday Shankar Saran Singh (Gp19)

(In Civil Writ Jurisdiction Case No. 8157 of 2021)

For the Petitioner/s : Mr.Siyaram Pandey, Advocate

For the Respondent/s : Mr.Anirban Kundu (SC24)

(In Civil Writ Jurisdiction Case No. 9621 of 2021)

For the Petitioner/s : Mr.Siyaram Pandey, Advocate

For the Respondent/s : Mr.Manoj Kumar Sinha, AC to GA-9

(In Civil Writ Jurisdiction Case No. 10606 of 2021)

For the Petitioner/s : Mr.Siyaram Pandey, Advocate

For the Respondent/s : Mr.Sanjay Prasad, AC to AAG-4

(In Civil Writ Jurisdiction Case No. 13038 of 2021)

For the Petitioner/s : Mr.Siyaram Pandey, Advocate

For the Respondent/s : Mr.Uday Shankar Sharan Singh (Gp19)

(In Civil Writ Jurisdiction Case No. 13367 of 2021)

For the Petitioner/s : Mr.Dr. Kamal Deo Sharma, Advocate

Mr. Tushar Vaibhav, Advocate

For the Respondent/s : Mr.Anirban Kundu, SC-24

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

13 02-03-2023 Heard learned counsel for the petitioners and learned  
counsel for the State.

2. These writ applications have been tagged for  
consideration as they pose a common question challenging the



office order(s) passed by the respondents whereby and whereunder the petitioners have been reverted from the post of Junior Accounts Clerk to the post of Lower Division Clerk and consequently their pay scale has been lowered down from existing PBI+2400 to PBI+1900. These petitioners have prayed for quashing of the impugned orders as also for their reinstatement on their initial post of Junior Accounts Clerk with all consequential benefits including grade pay attached thereto for the post of Junior Accounts Clerk i.e. pay scale (5200-20200) with grade pay Rs. 2400/- as per memo no. 3111 dated 25.03.2015 issued by the Finance Department, Govt. of Bihar, Patna.

3. The petitioners have pointed out that the impugned orders are in the teeth of the order dated 06.09.2018 passed in CWJC No. 16908/2018, order dated 11.04.2019 passed in CWJC No. 5612/2019 and the order dated 24.08.2016 passed in LPA No. 206/2014. It is stated that the impugned action is in violation of it's own resolution of the Department of Finance bearing memo no. 3111 dated 25.03.2015 and the respondents have not taken care to follow the principles contained in the Bihar Litigation Policy, 2011, whereunder once an issue has been decided by this Court and attains finality, the grievance of



others who are similarly situated and covered by the order of this Court are to be redressed by the Administrative Department.

4. At this stage, learned counsel for the petitioners points out that these petitioners were appointed in the different offices of the departments of the Government of Bihar on compassionate ground on the post of Junior Accounts Clerk/Lower Division Clerk (Accounts) after being fully satisfied with the educational qualification of the petitioners. The copies of appointment letters have been enclosed with the writ applications. Learned counsel submits that the pay scale of Junior Accounts Clerk and the Senior Accounts Clerk was in controversy for some time due to merger and de-merger of the two posts. The Department of Finance, Govt. of Bihar vide resolution no. 3111 dated 25.03.2015 however resolved the said issue inasmuch as it was made clear in clause-5(ii) that all those who have been appointed on or after 28.09.1999 on the different account posts under the Works Department like Junior Accounts Clerk/Lower Division Clerk (Accounts) and the Lower Division Clerk would be designated as Junior Accounts Clerk and the resolution further clarified that till 31.12.2005 they will get salary in the pay scale of Rs. 4000-6000 and thereafter w.e.f. 01.01.2006 PB1+2400. After promotion they will get PB-i+2800



(Pay scale 5200-20,200).

5. Learned counsel submits that some of the writ application, the lead case being CWJC No. 14709/2022 involving identical question came to this Court recently for consideration. This Court vide order dated 24.02.2023 discussed the impact of the resolution no. 3111 dated 25.03.2015 of the Department of Finance and taking note of the earlier judgment of learned coordinate Bench in CWJC No. 9921/2017 and other analogous matters this Court concluded it's opinion in paragraph 16 to 24. A copy of the order dated 24.02.2023 passed in CWJC No. 14709/2022 has been placed before this court and it has been emphatically submitted that on facts as well as in the matter of application of law these cases are identically situated.

6. Learned counsel for the State are present. They have made a statement that these cases are covered by the order dated 24.02.2023 passed in CWJC No. 14709/2022 and other analogous matters.

7. In the aforesaid view of the matter, this Court finds that these writ applications are to be disposed of in terms of the order dated 24.02.2023 passed in CWJC No. 14709/2022 and other analogous matters.

8. In order to place the reasons and rationale provided



by this Court in the said order, readily available in this case, this Court deems it just and proper to reproduce paragraph '16' to '26' of the order dated 24.02.2023 as under:

**“16.** On bare perusal of sub-paragraph (ii) of paragraph '5' of Annexure-3 it would appear that for those who came to be appointed in the cadre of Accounts Clerk on or after 28.09.1999, they will be known as Junior Accounts Clerk and upto 31.12.2005 they would be entitled for pay scale of Rs. 4000-6000 and with effect from 01.01.2006 they would be entitled for PB-1+2400 pay scale. On their promotion to the Senior Accounts Clerk, they would be placed in the pay scale of Rs. 4500-7000 and after 01.01.2006 PB-1+2800 would be admissible.

**17.** The aforementioned resolution as contained in Annexure '3' came to be considered by the learned coordinate Bench of this Court in C.W.J.C. No. 9921 of 2017 and other analogous matters. A bare perusal of the facts of those cases briefly noted in the judgment of the learned coordinate Bench would show that the petitioners in those cases were also the compassionate appointees, they entered in the cadre of Junior Accounts Clerk and were placed in the pay scale of Rs. 3050-4590. The petitioner in one of the analogous matters being CWJC No. 8538 of 2016 had been reverted to the post of lower division clerk vide memo no. 733 dated 08.11.2014 i.e. prior to the Finance Department's resolution dated 25.03.2015. The writ petitioners in those cases had been reverted to the scale of lower division clerk and orders of recovery had been issued for the excess salary drawn by them in the accounts cadre. The State- respondents contested the writ petitions on the ground that the benefit of the resolution no.3111 dated 25.03.2015 of the Finance Department did not cover the case of compassionate appointees rather was applicable only to direct recruits who had entered service after facing regular selection process.

**18.** The learned writ court noticed that this issue had earlier drawn attention of this Court in C.W.J.C. No. 12124 of 2011 (Ram Janam Jha and ors. versus the State of Bihar). A learned coordinate Bench of this Court had quashed the order of the Finance Department dated 03.08.2010 passed on similar lines and held that the petitioners of those cases would be treated as accounts clerk throughout with all consequential benefits. A direction was also issued to give the pay scale so granted to them and no recovery shall be permissible. An Intra- court appeal giving rise to LPA



No. 206 of 2016 (State of Bihar & Ors. Vs. Ram Janam Jha and Ors.) did not succeed. The Division Bench took note of the Finance Department's resolution no. 3111 dated 25.03.2015 and held that since the State Government itself has decided to do away with the distinction between the junior accounts clerk and senior accounts clerk and since a decision was taken to grant the pay scale meant for senior accounts clerk to all accounts clerk whether appointed on compassionate ground or otherwise, all of them would be entitled to the same benefit.

**19.** The State of Bihar went to the Hon'ble Apex Court in S.L.P. © No. 2982 of 2017, the same was dismissed by the Hon'ble Supreme Court vide judgment and order passed on 10.02.2017. The learned writ Court also noticed that while Letters Patent Appeal of the State was pending before the Hon'ble Division Bench, the Finance Department had tried to preempt the decision by issuing resolution no.5483 dated 11.07.2016 to hold that the benefit of resolution no. 3111 dated 25.03.2015 would not cover the case of the compassionate appointees. This conduct of the department was heavily deprecated by the learned writ Court.

**20.** This Court finds substance in the submissions of the learned counsel for the petitioners that once the judgment of the learned writ Court in CWJC No. 9921 of 2017 has been affirmed by the Hon'ble Division Bench in LPA No. 1702 of 2017 and other analogous matters and a challenge to the same has already failed before the Hon'ble Supreme Court, there was no reason for the State-respondents to repeat the same mistake again and again. From Annexure '11' to CWJC No. 14709 of 2022, it is evident that the then Secretary (Expenditure), Finance Department had earlier considered several judgments of this Court and asked for compliance with those judgments.

**21.** This Court has also come across an order of the Hon'ble Supreme Court in petition for Special Leave to Appeal (c) No. 19255 of 2021 arising out of final judgment and order dated 17.09.2021 in SAD No.335 of 2021 passed by the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench (State of UP & Anr. Vs. Aishwarya Pandey) in which the fact was that the petitioner was appointed on the post of officer on special duty on compassionate ground, she was placed in the pay scale of Rs.6500-10,500/- which was lower than the pay scale required to be paid to Officer on Special Duty. A writ petition was filed before the High Court and the same was allowed directing the State-respondents to pay Rs. 8000-13500/- pay scale which pay scale was available for the post of Officer on



Special Duty. The State went in appeal before the Hon'ble Supreme Court and tried to draw a distinction saying that the writ-petitioner was appointed on compassionate ground. This was rejected by the Hon'ble Supreme Court. It was held inter alia that "there cannot be two different pay scales for the employee appointed on compassionate ground and the employee appointed on regular basis. The moment a person is appointed on a particular post, that person is entitled to the pay scale of the very post, even if the appointment is on compassionate ground. ..." This judgment of the Hon'ble Apex Court is being quoted here only to further strengthen the view of this Court based on the judgment of the learned coordinate Bench in CWJC No. 9921 of 2017 and other analogous matters.

**22.** As regards the reasons shown in CWJC No. 9911 of 2022 in Annexure '6', this Court finds that the respondents have made factual mistake in saying that this case is different from one decided by the learned co-ordinate Bench in CWJC No. 9921 of 2017 and other analogous cases. This Court has purposely pointed out from the judgment of the learned co-ordinate Bench itself that CWJC No. 8538 of 2016 which was one of the analogous matters pertaining to P.H.E.D. was a case in which the petitioner had been reverted to the post of lower division clerk prior to the Finance Department's resolution dated 25.03.2015. The same department cannot be expected to remain unmindful of the factual aspects of the judgments of the Court which are available on the record. A learned writ court in C.W.J.C. No. 17888 of 2019 has already held in similar circumstance that the reason shown is factually and legally unsustainable. This Court takes the same view as regards Annexure '6' to C.W.J.C. No. 9911 of 2022.

**23.** In the light of the aforementioned discussions, this Court would come to a conclusion that the impugned orders in these writ applications have been passed without application of judicious mind and are dehors to the judgments of this Court which have already attained finality. This Court is at pain to record that the conduct of the respondent authorities of this departments in repeating the same and one mistake cannot be said to be a mere case of unawareness on their part, rather these are the matters which compel this Court to take a view that the respondents are not acting with a positive bend of mind. They have no respect for their own litigation policy and they are multiplying the litigations burdening their own employees and the whole system.

**24.** This Court finds that the case of these petitioners are squarely covered by the judgment of this Court in



C.W.J.C. No. 9921 of 2017 which has been tested up to the Hon'ble Apex Court. These are also similarly situated with C.W.J.C. No. 12703 of 2019 in which the Rural Works Department has already redressed the grievance of the petitioners.

**25.** The petitioners would, thus, be entitled for the same benefit and the consequential reliefs as have been granted to the petitioners in those writ applications.

**26.** This Court, therefore, while quashing the impugned orders in terms of the prayers made in these writ applications, allow these writ applications with a cost of Rs. 10,000/- each. The State would be at liberty to recover these costs from the erring officials in accordance with law.”

These writ applications are allowed in similar terms with cost.

At this stage, this Court has been informed that some deductions have already been made pursuant to the impugned orders. It goes without saying that the effect of quashing of the orders impugned in the writ applications would be that the petitioners shall be entitled to get back their money recovered under the impugned orders.

**(Rajeev Ranjan Prasad, J)**

Rajeev/-

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