

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21329 of 2013

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1. Rama Shankar Thakur and Ors S/O Late Kameshwar Thakur Resident Of Village Hathitola, P.S- Maner, District- Patna.
 2. Ganesh Thakur S/O Late Haridwar Thakur Resident Of Khagaul, Choti Badalpura, P.S- Khagaul, District- Patna.
 3. Jagdish Singh Yadav S/O Late Ram Naresh Singh Resident Of Village Mapatpur, P.S- Ramgarh, District- Kaimur.
 4. Ram Bachan Sah S/O Late Ram Dhyani Sah Resident Of Village- Bhusoula, P.S- Phulwarisharif, District- Patna.
 5. Suresh Prasad S/O Late Mahesh Sao Resident Of Village- Matepur, P.S- Naubatpur, District- Patna.
 6. Kapildeo Jha S/O Late Ayodhya Jha Resident Of Village Purani Bazar, Jhajha, P.S- Jhajha, District- Jamui.
 7. Rajendra Kumar S/O Late Rameshwar Prasad Resident Of Village Gowasa, Sheikhpura, P.S- Pandarak, District- Patna.
 8. Krishna Prasad Singh S/O Late Parmeshwar Prasad Resident Of Village Tetua Bazarpar, P.S- Khidarsarai, District-Gaya.
 9. Rajanand Prasad Singh S/O Late Bisheshwar Yadav Resident Of Village Lutaflachak, P.S- Nalanda, District- Nalanda.
 10. Raju Prasad S/O Late Munilal Resident Of Village- Ramnagar Bouchachak, P.S- Pulwarisharif, Distt- Patna.
 11. Saguni Prasad S/O Late Banshi Sah Resident Of Village- Sikandarpur, P.S- Punpun, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Additional Secretary, Public Health Engineering Department, Bihar, Patna.
3. The Chief Engineer Mechanical Public Health Engineering Department, Bihar, Patna.
4. The Executive Engineer, Public Health Mechanical Division, Patna.
5. The Executive Engineer, Public Health Mechanical Division, Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan, Adv.
For the Respondent/s	:	Mr. Sita Ram Yadav, GP 16 Mr Yatindra Narayan, AC to GP 16

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA



ORAL ORDER

2 06-02-2023 1. The petitioner by way of this writ petition has prayed for grant of arrears of salary for the work period from 01.06.2002 to 29.11.2006. Keeping in view the observations made by the this Court in **C.W.J.C. 7211/2013 (Yogendra Prasad Asthana Vs. The State of Bihar & Ors.)** and other analogous cases decided on **16.05.2013** held as under:

“Heard learned counsel for the parties.

In all these writ applications, the main prayer of the petitioners is one and the same, namely, they should be paid salary for the period 1.6.2002 to 30.11.2006.

Learned counsel for the petitioners have drawn attention of this Court towards an order passed by this Court on 9.3.2011 in CWJC No. 10243 of 2006 (Vidyanand Jha & Ors. Vs. The State of Bihar & Ors.) as also another order dated 20.12.2011 in CWJC No. 6004 of 2007 (Awadhesh Kumar Vs. The State of Bihar & Ors.) and have submitted that the case of the petitioners is absolutely identical to the case of Awadhesh Kumar (supra). They have also submitted that in fact the order passed by



this Court in the case of Awadhesh Kumar (supra) has become final, inasmuch as, the same has not been subjected to any appeal and the Principal Secretary of the Public Health Engineering Department by his order dated 5.11.2012 has also complied the same.

In these cases, counter affidavit has been filed wherein the facts asserted by the petitioners have not been controverted. All that has been sought to be explained is that Awadhesh Kumar was given the benefit of payment of salary for the same period i.e. 1.6.2002 to 30.11.2006 by way of compliance of the order of this Court dated 20.12.2011 in CWJC No. 6004 of 2007.

This Court would fail to appreciate the aforementioned stand taken by the respondents in denying the petitioners' payment of salary for the aforementioned period from 1.6.2002 to 30.11.2006. Once this Court having considered the entire aspect in the case of Awadhesh Kumar (supra) had gone to hold that such of the muster roll employees who were later on brought in workcharge establishment and were allowed to continue for a pretty long



period in work-charge establishment having been reverted again to daily wages but ultimately regularized in service, would be entitled for their payment of salary as a work-charge employee, there cannot be any different treatment amongst same set of similarly situated persons.

This Court would not, therefore, like to go to any other aspect and having regard to there being no dispute even in the counter affidavit that the case of Awadhesh Kumar (supra) is identical to that of the petitioners, would direct the Principal Secretary of the Public Health Engineering Department to give these petitioners also the same treatment which was given to Awadhesh Kumar (supra) by his order contained in letter dated 5.11.2012. In other words, these petitioners shall also be paid their difference of salary as given to Awadhesh Kumar (supra) for the period 1.6.2002 to 30.11.2006 within a period of three months from the date of receipt of this order.

The respondents while doing so shall keep in mind that not only the case of



the petitioners but of all other similarly situated persons have to be dealt similarly in keeping with the policy decision of the State Government itself laid down in Bihar Litigation Policy which, apart from other things, lays down that for the same relief which has already been allowed by this Court, the other person should not be compelled to move court of law.

That being so, these applications are disposed of with the same and similar directions as recorded in the order dated 20.12.2011 in C.W.J.C. No. 6004 of 2007.”

Thus, the claim of the petitioner is found to be made out.

2. The respondents have also in their counter affidavit admitted as under:

“15. That it is humbly submitted that Hon’ble High Court by its order dated 16.05.2013 passed in C.W.J.C. no. 7211/2013 and 16 other analogues cases has directed the principal Secretary of Public Health Engineering Department to give these petitioners also the same treatment which was given to Awadhesh



Kumar (Supra) by his order contained in letter dated 05.11.2012. In other words, these petitioners shall also be paid their difference of salary as given to Awadhesh Kumar (Supra) for the period of 01.06.2002 to 30.11.2006 within a period of three months from the date of receipt of this order.”

3. In view of above, this writ petition is allowed. The respondents are directed to release the payments as promised by them as above within a period of one month from today.

4. The writ petition is allowed accordingly.

(Sanjeev Prakash Sharma, J)

Suraj/-
Item No. 29

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