

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3455 of 2017

1. Md. Zakir and Ors son of Late Md. Kuddush, resident of Village- Nawabganj, P.O.- Alinagar, P.S.- Suryagarha, District- Lakhisarai, Presently working as Irrigation Revenue Inspector, Saran Canal Division, Chapra.
2. Mahboob Hasan, son of Late Mahmood Hasan, R/o Village- Raja Bari, P.O.- Khajanchi Hat, P.S.- Sahayak Purnea, District- Purnea, Presently working as Irrigation Revenue Inspector, Irrigation Division, Katihar.
3. Md. Naushad, son of Late Md. Hali, R/o Village- Rasauli S.K. Tola, P.O.- Rasauli, P.S.- Panapur, District- Chapra, Presently working as Irrigation Revenue Inspector, Irrigation Division, Katihar.
4. Satya Narayan Singh, son of Late Mahavir Singh, R/o Village P.O.- Mahadipur, P.S.- Pasraha, District- Khagaria, Presently working as Irrigation Revenue Inspector, Irrigation Division, Banamankhi.
5. Diwakar Prasad Sah, son of Late Ramdeo Sah, R/o Vill P.O.- Jhalari, P.S.- Rupauli, District- Purnea, Presently working as Irrigation Revenue Inspector, Irrigation Division, Araria.
6. Santosh Kumar Mishra, son of Late Shiv Shankar Mishra, R/o Vill Udakara, P.O.- Sonehula, P.S.- Gopalpur, Presently working as Irrigation Revenue Inspector, Irrigation Division, Bathnaha, Araria.
7. Prashant Kumar, son of Late Vijay Kumar Sarkar, R/o Vill P.O.- Tamaut Parsa, P.S.- Murliganj, District- Madhepura, Presently working as Irrigation Revenue Inspector, Irrigation Division, Bathnaha, Araria.
8. Sunil Kumar Jha, son of Late Narendra Jha, R/o Vill P.O.- Lalganj Tilathi, P.S.- Chhatapur, Distt- Supaul, Presently working as Irrigation Revenue Inspector, Irrigation Division, Murliganj, Madhepura.
9. Md. Haidar Alam, son of Late Kuddus, R/o Mohalla- Saharasa Basti Ward No.38, P.O.- Saharsa Distt- Saharsa, Presently working as Irrigation Revenue Inspector, Irrigation Division, Murliganj, Madhepura.
10. Anil Kumar Singh, son of Late Janardan Prasad Singh, R/o Vill P.O.- Khara, P.S.- Uda Kishunganj, District- Madhupura, Presently working as Irrigation Revenue Inspector, Irrigation Division, Murliganj, Madhepura.
11. Mithilesh Kumar Jha, son of Late Vidyanand Jha, R/o Vill P.O.- Balua Bazar, P.S.- Balua Bazar, District- Supaul, Presently working as Irrigation Revenue Inspector, Irrigation Division, Banmankhi.
12. Neeraj Kumar Singh, son of Late Kusum Kumar Singh, R/o Vill P.O.- Kuwanri Gola, P.S.- Dhamdaha, Distt- Purnea, Presently working as Irrigation Revenue Inspector, Irrigation Division, Araria.
13. Mani Bhushan Jha, son of Shobha Kant Jha, R/o Vill- Kandaha, P.O.- Mahisi, P.S.- Mahisi, Distt- Saharsa, Presently working as Irrigation Revenue Inspector, Irrigation Division, Araria.
14. Jwala Prasad Singh, son of Late Shyamjee Singh, R/o Vill- Lahrapa, P.O.- Agioan, P.S.- District- Bhojpur, Presently working as Irrigation Revenue Inspector, Sone Canal Division, Ara.
15. Rewati Raman Singh, son of Late Yogendra Singh, R/o Vill- Khiriya



- Mathiyan, P.S.- Narkatiyaganj, Distt- West Champaran, Presently working as Irrigation Revenue Inspector, Sone Canal Division, Ara.
16. Nirmal Kumar, son of Late Anand Singh, R/o Vill P.O.- Majhua, P.S.- Farbisganj, Distt- Araria, Presently working as Irrigation Revenue Inspector, Irrigation Division, Buxar.
 17. Vijay Tiwari, son of Late Rajgrihi Tiwari, R/o Vill P.O.- Gori, P.S.- Kargahar, District- Rohtas, Presently working as Irrigation Revenue Inspector, Irrigation Division, Buxar.
 18. Arvind Kumar, son of Late Ramadhar Singh, R/o Vill- Chakarahi Chok, P.O.- Banahi, P.S.- Bihia, Distt- Bhojpur Ara, Presently working as Irrigation Revenue Inspector, Irrigation Division, Buxar.
 19. Naresh Kumar Singh, son of Late Siya Prasad Singh, R/o Vill P.O.- Brahmpura, P.S.- Manigachhi, Distt- Darbhanga, Presently working as Irrigation Revenue Inspector, Irrigation Division, Buxar.
 20. Raj Kishor Singh, son of Late Anirudh Singh, R/o Vill P.O.- Rakiya, P.S.- Bihra, Distt- Saharsa, Presently working as Irrigation Revenue Inspector, Irrigation Division, Ara.
 21. Abhay Kumar Singh, son of Late Yogendra Mehta @ Jitendra Singh, R/o Vill P.O.- Damgara, P.S.- Dhamadaha, Distt- Purnea, Presently working as Irrigation Revenue Inspector, Sone Canal Division, Ara.
 22. Manoj Kumar Pathak, son of Late Chandra Mohan Pathak, R/o Vill- Uchauli, P.O.- Regania, P.S.- Madanpur, District- Aurangabad, Presently working as Irrigation Revenue Inspector, Sone Canal Division, Ara.
 23. Ajay Kumar Singh, son of Late Sudama Singh, R/o Vill- Etawa, P.O.- Bahuara, P.S.- Kowath, District- Rohtas, Presently working as Irrigation Revenue Inspector, Sone Canal Division, Ara.
 24. Vijay Prasad, son of Late Dewan Prasad Yadav, R/o Vill- Lahladpur, P.O.- Saidabad, P.S.- Rania Talan Kanpa, Distt- Patna, Presently working as Irrigation Revenue Inspector, Sone Canal Division, Ara.
 25. Vijay Kumar Roy, son of Late Ramanand Roy, R/o Mohalla- Punaichak, P.S.- Shastri Nagar, District- Patna, Presently working as Irrigation Revenue Inspector, Sone Canal Division, Ara.
 26. Sabor Hussain, son of Late Anwarul Haque, R/o Vill- Chandmarhi, P.O.- Barsauni, P.S.- Dhagrua, Distt- Purnea, Presently working as Irrigation Revenue Inspector, Sone Canal Division, Ara.
 27. Kishori Pandit, son of Late Rameshwar Pandit, R/o Vill- Paharpur, P.O.- Jamalpur, P.S.- Jamalpur, Distt- Munger, Presently working as Irrigation Revenue Inspector, Sone Canal Division, Ara.
 28. Manish Kumar Kashyap, son of Late Rajendra Prasad Singh, R/o Vill- Dewan Biha, P.O.- Parwati, P.S.- Kashichak, Distt- Nawada, Presently working as Irrigation Revenue Inspector, Sone Canal Division, Khagaul, Patna.
 29. Dilip Kumar Mehta, son of Late Kapildeo Mahto, R/o Vill- Chulhai Bigha, P.O.- Manjaur, P.S.- Warsaliganj, Distt- Nawada, Presently working as Irrigation Revenue Inspector, Sone Canal Division, Khagaul, Patna.
 30. Arvind Kumar Mehra, Son of Amawad Ram, R/o Pawani, P.O.- Chunni,



- P.S.- Buxar, Presently working as Irrigation Revenue Inspector, Sone Canal Division, Khagaul, Patna.
31. Shiv Nandan Mandal, son of Late Lalji Mandal, R/o Vill- Ranga, P.O.- Ranga, P.S.- Belhar, Distt- Banka, Presently working as Irrigation Revenue Inspector, Irrigation Division, Daudnagar, Aurangabad.
 32. Mukesh Kumar, son of Late Vivekanand Sinha, R/o Vill- Thana Bigha, P.O.- Oakari, P.S.- Ghosi, Distt- Jehanabad, Presently working as Irrigation Revenue Inspector, Irrigation Division, Gandak at Raxaul.
 33. Vijay Kumar, son of Late Saryu Ram, R/o Vill- Bahuara, P.O.- Dhanchuha, P.S.- Chauri Sahar, Distt- Bhojpur, Presently working as Irrigation Revenue Inspector, High Level Sone Canal Division, Bhabhua.
 34. Ram Narayan Shahi, S/o Late Dharmnath Shahi, R/o Vill P.O.- Patedha, P.S.- Maharajganj, Distt- Siwan, Presently working as Irrigation Revenue Inspector, High Level Sone Canal Division, Bhabhua.
 35. Md. Aamir, son of Late Mahmood Alam, R/o Vill P.O.- Adhkkparia, P.S.- Ramgarhwa, Distt- East Champaran, Presently working as Irrigation Revenue Inspector, High Level Sone Canal Division, Bhabhua.
 36. Krishna Murari Singh, son of Late Ram Janam Singh, R/o Vill- Shobhekhap, P.O.- Jhumardihra, P.S.- Barun, Distt- Aurangabad, Presently working as Irrigation Revenue Inspector, High Level Sone Canal Division, Bhabhua.
 37. Sunil Kumar Singh, son of Sant Prasad Singh, R/o Vill- Semra, P.O.- Muradabad, P.S.- Aagrur, Distt- Rohtas, Presently working as Irrigation Revenue Inspector, High Level Sone Canal Division, Bhabhua.
 38. Aangad Prasad Singh, son of Late Sudha Ranjan Singh, R/o Vill P.O.- Shahjadpur, P.S.- Sakhund, Distt- Bhagalpur, Presently working as Irrigation Revenue Inspector, Irrigation Division, Bijikhorba, Banka.
 39. Diwakar Prasad Singh, son of Late Priyabrat Narayan Singh, R/o Vill- Chuhatiya, P.O.- Beldiha, P.S.- Belhar, Distt- Banka, Presently working as Irrigation Revenue Inspector, Irrigation Division, Bijikhorba, Banka.
 40. Nawal Kishor Mandal, son of Late Rasik Lal Mandal, R/o Vill- Khajana, P.O.- Dhankudhia, P.S.- Belhar, Distt- Banka, Presently working as Irrigation Revenue Inspector, Irrigation Division, Bijikhorba, Banka.
 41. Rajeev Kumar Sharma, son of Late Ram Swarath Sharma, R/o Vill- Chakrapya, P.O.- Ezra, P.S. Sadar, Distt- Vaishali, Presently working as Irrigation Revenue Inspector, Irrigation Division, Bijikhorba, Banka.
 42. Arvind Kumar Singh, son of Late Vishwanath Singh, R/o Vill Simara Dusadh, P.O.- Mirjapur, P.S.- Navinagar, Distt- Aurangabad Presently working as Irrigation Revenue Inspector, High Level Sone Canal Division, Aurangabad.
 43. Gopal Kumar Singh, son of Late Sheodhar Prasad, R/o Mohalla- Jakkanpur, P.O.- G.P.O., P.S.- Jakkanpur, Distt- Patna, Presently working as Irrigation Revenue Inspector, High Level Sone Canal Division, Bhabhua.
 44. Finindra Kumar, son of Late Madhaw Saran Sinha, R/o Vill- Govindpur, P.O.- Tikaita, P.S.- Turkauliya, Distt- East Champaran Presently working as Irrigation Revenue Inspector, Tirhut Canal Division-1, Motihari.
 45. Shashi Bhusan Tiwary, son of Late Ramakant Tiwary, R/o Vill- Naugarhwa,



P.O.P.S.- Ramgarhwa, Distt- East Champaran, Presently working as Irrigation Revenue Inspector, Ghorasahan Canal Division, Raxaul.

46. Mukesh Kumar Singh, son of Keshav Prasad Singh, R/o Vill- Mukundpur, P.O.- Baradaud, P.S.- Paru, Distt- Muzaffarpur, Presently working as Irrigation Revenue Inspector, Tirhut Canal Division, Chakiya.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, Water Resources Department, Govt. of Bihar, Sichai Bhawan, Patna.
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Secretary Expenditure Finance Department, Govt. of Bihar, Patna.
5. The Additional Secretary, Finance Department, Govt. of Bihar, Patna.
6. The Director Investigation, Finance Department, Govt. of Bihar, Patna.
7. The Joint Secretary, Finance Department, Govt. of Bihar, Patna.
8. The Engineer-in-Chief cum Special Secretary, Irrigation Department, Govt. of Bihar, Patna.
9. The Joint Secretary, Irrigation Department, Govt. of Bihar, Patna.
10. The Chief Engineer, Irrigation Srijan Construction, Department, Siwan.
11. The Chief Engineer, Irrigation Srijan Motihari.
12. The Chief Engineer, Irrigation Srijan Saharsa.
13. The Chief Engineer, Irrigation Srijan Aurangabad.
14. The Chief Engineer, Irrigation Srijan Dehri-on-Sone.
15. The Chief Engineer, Irrigation Srijan Bhagalpur.
16. The Executive Engineer, Saran Canal Division, Chapra.
17. The Executive Engineer, Tirhut Canal Division-1, Motihari.
18. The Executive Engineer, Irrigation Division, Katihar.
19. The Executive Engineer, Irrigation Division, Banmankhi.
20. The Executive Engineer, Irrigation Division, Bathnaha, Araria.
21. The Executive Engineer, Irrigation Division, Araria.
22. The Executive Engineer, Irrigation Division, Murliganj, Madhepura.
23. The Executive Engineer, Sone Canal Division, Khagaul, Patna.
24. The Executive Engineer, Irrigation Division, Daudnagar, Aurangabad.
25. The Executive Engineer, Sone Canal Division, Ara.
26. The Executive Engineer, Irrigation Division, Buxar.
27. The Executive Engineer, Gandak at Raxaul, E.Champaran.
28. The Executive Engineer, Ghorasahan Canal Division, Raxaul, East Champaran.
29. The Executive Engineer, High Level Sone Canal Division at Bhabhua.



30. The Executive Engineer, High Level Sone Canal Division Aurangabad.
31. The Executive Engineer, Biji Khorba Division, Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajendra Narain, Sr, advocate
Mr. Girdhar Gopal Tiwary, advocate
For the Respondent/s : Mr. Sanjay Kumar, AC to AAG4

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 02-02-2023 Heard learned senior counsel for the petitioners and
learned counsel for the State.

Petitioners have filed this writ petition for following
reliefs:-

(I) For setting aside the decision of the Secretary Expenditure Finance Department (on 4.7.16) Govt. of Bihar as approved by the Principal Secretary Finance whereby it has been decided the claim of pay revision of Irrigation Revenue Inspectors is not established and observed that the Director Investigation has held that it can be done only for affected persons (Promoted persons) and approved the same although the Director Investigation had not said so.

(ii) For setting aside the consequential decision dt. 2.9.2016 of the Water Resources Department directing the promoted Irrigation Revenue Inspectors to get their pay fixed in the scale of Moharirs which has been communicated to Chief Engineers vide letter no. 1054 dt. 23.9.16.

(iii) Holding that since the post of Irrigation Revenue Inspector is higher than Moharirs, they are entitled to higher pay scale.

(iv) Holding that there cannot be two pay scale for the



same post.

(v) For directing the respondents to grant higher pay scale than the Moharirs w.e.f. 1.1.1996/ 1.1.2006 with consequential benefits including payment of difference of pay and allowance in the pay scale 5000-8000/-

(vi) For grant of any other relief to which petitioners be held entitled to by this Hon'ble court.

Facts leading to this writ petition in brief is that after coming into force of Bihar Irrigation Revenue Inspector Recruitment Rules, 1982, for supervising the collection of irrigation revenue, the petitioners were appointed as Irrigation Revenue Inspectors on different dates and they joined their places of posting in various years prior to 20.12.2000. As per recruitment rules the pay scale of Inspectors (pre- revised) was 535-10-645-15-765 which was revised to Rs. 975-1540/- w.e.f 1986 and Rs. 3200-4900/- w.e.f. 1.1.1996 and P.B. 1+2000 w.e.f. 1.1.2006. Till the year 1996 the pay scale of Moharirs and Irrigation Revenue Inspectors was the same. Initially the Moharirs were treated as Lower Division Clerk but vide letter No. 443 dt. 26.05.1995 the Irrigation (W.R.D) Department directed that they be treated separate from L.D.C. and their pay was lowered down. The affected Moharirs challenged the said order in this court by filing various writ petitions including



CWJC No. 5275 of 1995 (Rajeshwar Prasad & Others) and analogous cases, which were heard and allowed by order dated 05.04.1996 holding that the erstwhile Moharirs were entitled to the pay scale of clerks (due to merger of LDC and UDC). The said order was challenged by the State of Bihar in LPA. No. 533-534/ 1996. The division Bench of this court dismissed the LPA vide order dated 10.01.2017 and consequently Moharirs appointed prior to 20.12.2000 were granted pay scale of 4000-6000/- w.e.f 1.1.1996 and those who were appointed thereafter (i.e. demerger) were granted the pay scale of 3050-4090/-. In pursuance of the aforesaid letter the Moharirs working under the Water Resources Department started getting the pay scale of Rs. 4000-6000/- whereas those Moharirs who were promoted as Irrigation Revenue Inspectors were given the pay scale of 3200-4900/-.

When the Irrigation Revenue Inspectors learnt about the grant of higher pay scale to Moharirs compared to them even though their post was promotional post for Moharirs, they started agitating the matter before the authorities both individually and collectively at various levels. Ultimately, a decision was taken and the pay scale of Irrigation Revenue Inspectors, who have been promoted from the post of Moharirs,



was fixed as Rs. 4000-6000/- where as persons like petitioners, who were directly appointed as Irrigation Revenue Inspectors, were placed in the pay scale of 3200-4900/-.

It is submitted on behalf of the petitioners that post of Irrigation Revenue Inspectors is supervisory in nature with higher responsibilities cast on them as compared to the Moharirs. The Moharirs could be appointed with minimum qualification of Matriculation but only Intermediate pass candidate could be appointed as Irrigation Revenue Inspector and denial of higher pay scale to the petitioners is highly discriminatory, arbitrary as well as in violation of principles of equal pay for equal work.

Counter affidavit filed on behalf of respondent No.2 & 8 to 31 states that this writ petition has been filed for setting aside the decision of the Secretary (Expenditure), Finance Department, Govt. of Bihar, Patna and Finance Department is the competent authority to give specific reply to the averments made by the petitioners.

Separate counter affidavit has been filed on behalf of respondent No. 3 to 7 (Finance Department) and in paragraph 8 of the counter affidavit it is stated that post of Irrigation Revenue Inspectors is promotional post from the Moharir/



Amin. It is further stated that from the records, it appears that before the Fitment Committee and the Fitment Appellate Committee neither the petitioners nor their association or the controlling department has presented the fact that post of Irrigation Revenue Inspectors is promotional post from the post of Moharir. In paragraph 14 of counter affidavit it is stated that anomaly has occurred inasmuch as the pay scale of Moharir appointed before 20.12.2000 has become more than the pay scale of Irrigation Revenue Inspectors. It is further stated that to address this pay anomaly, it was opined by the Finance Department that all those Irrigation Revenue Inspectors promoted from the post of Moharirs shall be given the pay protection and to them an option should be given to get their pay fixation as per the pay scale of the Moharirs. This opinion was given to remove the pay anomaly which has arisen and also looking to the fact that the post of Moharir and Irrigation Revenue Inspector are dying one.

Considering the rival submission of the parties and on perusal of materials available on record this court is of the opinion that in view of statement made in paragraph 14 and 15 of counter affidavit, it is not in dispute that anomaly has occurred in the pay scale of the petitioners/ Irrigation Revenue



Inspectors from the pay scale of Moharirs although post of Irrigation Revenue Inspectors is promotional post for the Moharirs, simply because the case of the petitioners was not put before the Fitment Committee and the Fitment Appellate Committee is not acceptable. It can not be a ground to deny the legitimate claim of the petitioners. Petitioners can not be made to suffer for the lapses on the part of the respondents. It was the duty of respondents to place the case of the petitioners before the Fitment Committee and the Fitment Appellate Committee.

In view of admitted position, this writ petition is disposed of with a direction to the petitioners to file a detailed representation before respondent No.3, Principal Secretary, Finance Department, Govt. of Bihar, Patna within a period of four weeks from the date of receipt/ production of a copy of this order. If such a representation is filed then respondent No.3 shall consider the case of petitioners in the light of averments made in paragraph 14 and 15 of the counter affidavit of respondent No. 3 to 7 (Finance Department) and dispose of the same by a reasoned and speaking order after hearing the parties within a period of six months thereafter.



This writ petition stands disposed of with aforesaid
observation/ direction.

BKS/-

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(Prabhat Kumar Singh, J)

