

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1532 of 2021

In
Civil Writ Jurisdiction Case No.4892 of 2015

-
1. Braj Bhushan Choubey, Son of Late Pahwari Choubey, Permanent resident of Village- Raghunathpur, P.O.- Rudalpur, P.S.- Bhore, District- Gopalganj.
 2. Ajay Kumar, Son of Late Baleshwar Pd. Dutta, resident of Village/ Mohalla- Rajiv Nagar, P.S. Digha, P.O. Patliputra, District- Patna.
 3. Ram Binod Pandey, Son of Late Ram Padarath Pandey, resident of Village- Katarmala, P.S.- Goraul, District- Vaishali.
 4. Pawan Kumar, Son of Late Rajendra Prasad Sharma, resident of Mohalla- 4M- 162 Bahadurpur Housing Colony, Patna, P.S.- Kankarbagh, District- Patna.
 5. Dayanand Prasad Yadav, Son of Late Lelhu Prasad Yadav, resident of Village- Pathra, P.S.- Pipra, District- Supaul.
 6. Feroz Alam, Son of Md. Yunush Ansari, resident of Village- Madhopur, P.S.- Madhoopur, District- Madhubani.
 7. Sawaliya Singh, Son of Sri Jaganath Singh, resident of Village- Masarak, District- Saran.
 8. Raj Narayan Yadav, Son of Suraj Narayan Yadav, resident of Village- Assama, P.S.- Rasiari, District- Darbhanga, at presently posted at Assistant in District Basery Darbhanga, Bihar.
 9. Thakur Dhananjay, Son of Sri Kamlesh Singh, resident of Village and P.S.- Chandi, District- Bhojpur at presently posted at Assistant in District Treasury, Ara, Bihar.
 10. Mahendra Kumar Singh, Son of Sri Ramayan Singh, resident of Village- Musaypur, P.S.- Bihta, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Mr. Sanjay Kumar presently posted as Chief Secretary, Govt. of Bihar, Patna.
2. Sri Lokeshw Kumar, presently posted as the Commissioner, Department of Finance, Bihar, Patna.
3. Sri Tripurari Saran, presently posted as the Additional Commissioner, (Resource) Department of Finance, Bihar, Patna.
4. Sri Gorakh Nath, presently posted as Special Secretary, Department of Finance, Bihar, Patna.
5. Sri Pranav Kumar, presently posted as District Magistrate, Muzaffarpur, Bihar.
6. Smt. Udit Singh, presently posted as District Magistrate, Vaishali.
7. Sri Subrat Kumar Sen, presently posted as District Magistrate, Bhagalpur.
8. Sri Mahendra Kumar, presently posted as District Magistrate, Supaul.



9. Dr. S.M. Tyagrajan, District Magistrate, Darbhanga.
10. Sri Roshan Kushwaha, presently posted as District Magistrate, Bhojpur, Ara, Bihar.
11. Sri Sushil Kumar presently posted as District Treasury Officer, Muzaffarpur.
12. Sri Kishore Kumar Kamath, presently posted as District Treasury Officer, Vaishali.
13. Sri Devendra Kumar, presently posted as District Treasury Officer, Bhagalpur.
14. Sri Rakesh Kumar Pankaj, presently posted as District Treasury Officer, Supaul.
15. Sri Shambhu Kumar Arya, presently posted as District Treasury Officer, Darbhanga.
16. Sri Sanjay Kumar- II, presently posted as District Treasury Officer, Bhojpur, Ara.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Senior Counsel Mr. Raj Kumar Mishra, Advocate
For the State	:	Mr. Parijat Saurav, AC to AAG-13

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

8 03-11-2023 Heard Mr. Rajendra Narain, learned senior counsel, duly assisted by Mr. Raj Kumar Mishra for the petitioners and Mr. Parijat Saurav, learned counsel for the State.

2. The petitioners by filling the present application seeking initiation of a contempt proceeding against the opposite parties for their alleged willful defiance of the order dated 27.04.2021, passed in C.W.J.C. No. 4892 of 2015 by a Bench of this Court, whereby, the Hon'ble Court while allowing the writ petition has been pleased to direct the respondents to extend the benefits of the decision of the Division Bench of this Court passed in LPA no. 716 of 2017 and grant all consequential



benefits, including the monetary benefits to the petitioners within a maximum period of sixty days from the date of receipt/production of the copy of this order. It is also made clear that if the monetary benefit does not reach to the petitioners within the aforesaid period, the entire monetary benefit will carry interest at the rate of twenty percent per annum, from the date of filing of this application till the actual payment which shall be realized from the officers of the respondent-authority.

3. Learned senior counsel while drawing the attention of this Court to the order passed in the Letters Patent Appeal No. 716 of 2017 has submitted across the Board that the learned Division Bench having taken note of the order of the Hon'ble Apex Court in Civil Appeal No. 13372 of 2015, has been pleased to observe that this order shall be made applicable to all such employees who are working in the State of Bihar. Regardless to the fact as to whether they have filed writ application or not, as per the litigation policy of the State of Bihar, this order shall be implemented in the case of all identically situated employees who claim the benefit by the State. Learned senior counsel made much emphasis on relevant paragraphs, which reads as follows :

“ 5. From the aforesaid legal principles laid down by the Hon'ble Supreme Court, it is clear that the



employees identically situated like the appellants herein, who were working in various Public Sector undertakings, Boards and Corporations in the undivided State of Bihar and whose cases were decided by the High Court of Jharkhand, have been granted benefit and the Hon'ble Supreme Court held that they are entitled to count their service prior to their absorption for the purpose of retiral benefits and grant all pensionary benefits.

6. That being the position, we see no reason to deny the same benefit to these appellants, who are identically situated, like the other, who are allocated to State of Jharkhand after re-organization of the State of Bihar in the year 2000.

7. In view of the aforesaid, we allow all these appeals, quash the order dated 29.03.2017 passed by the Writ Court in C.W.J.C. No. 7702 of 2010 and other analogous cases and direct the State of Bihar to grant benefit to each of the appellants herein by counting services as rendered by them in the Boards, Corporations and Public Sector Undertakings prior to their absorption and to grant them the pensionary benefit after counting such service in the Boards or Corporations."

4. He further submits that though after much persuasion, the opposite parties have made substantive payment in compliance of the order of this Court, but the same is not as per the letter and spirit of the order of this Court, that apart, the petitioners have not been given the benefit of the past services rendered in the different Departments/ Boards/Corporations.



5. A chart has been prepared and brought on record showing the legitimate entitlement of the petitioners. He further drew the attention of this Court to the order where a decision has been taken at the level of the State Government that the past services of the petitioners shall be counted by the purposes of pension and other post retiral benefits.

6. On the other hand, learned counsel for the State while drawing the attention of this Court to the show cause affidavit filed on behalf of the Chief Secretary, Government of Bihar, has candidly submitted that in compliance of the order of this Court, all the petitioners have been paid their retiral benefits with interest and as two of the petitioners are still in active service, hence, they have not been allowed the benefit of retiral benefits at this stage.

7. At this juncture, learned senior counsel for the petitioners submits that though the order has been passed by the Chief Secretary, but that has not been given effect to and thus the opposite parties are under contempt. In response to the show cause affidavit filed on behalf of the Chief Secretary, a reply to the show cause has been filed on the behalf of the petitioners, indicating entitlement in accordance with law, which has not been given effect to till date.



8. This Court has heard the learned counsel for the parties and on being prima facie satisfied that the order of this Court has been complied, doesn't find any reason to proceed further in the contempt matter. However, it is made clear that the petitioner(s) is/are at liberty to file appropriate application/petition if he/they has/have still any grievance with regard to any entitlement(s), which has not been endowed upon him/them.

9. The matter is accordingly disposed off.

(Harish Kumar, J)

supratim/-

U			
---	--	--	--

