

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7973 of 2011

1. Dinkar Prasad Singh, Son of Late Laxmi Narain Singh, Resident of Simra, Post Office - Parsa Bazar, P.S. - Parsa Bazar, District – Patna.
2. Kalawati Devi, Wife of Son of Late Parmeshwar Prasad, Resident of Village- Simra, Post Office - Parsa Bazar, P.S. - Parsa Bazar, District – Patna.
3. Doulti Devi, Wife of Late Jagdish Prasad Singh, Resident of Village- Jagdishpur, Post Office - Powawa, P.S. - Masaurhi, District – Patna.
4. Rajeshwar Prasad Singh, Son of Late Anadi Singh, Resident of Village - Piaria, Post Office - Pipra, Police Station - Gaurichak, District – Patna.
5. Raj Nandan Singh, Son of Late Sant Lal Singh, Resident of Village - Dewaramkechak (Marchi), Police Station - New Patna Bypass, District – Patna.
6. Rameshwar Rai, Son of Late Radha Rai, Resident of Village - Bagar, Post Office - Bagar, Police Station - Kikrahta, District -Bohjpur, (Ara).
7. Shrikant Singh, Son of Late Ramanuj Singh, Resident of Village and Post - Dayalpur, Via - Bidupur (Railway Station), P.S. - Rajapakar, District – Vaishali. At Present Working as Fitter in the Department of Minor Irrigation, Executive Engineer, Tube Well Division, Hajipur At Vaishali.
8. Braj Bhushan Prasad, Son of Late Bhola Sah, Resident of Mohalla - Maa Durga Nagar, Post Office - Chandralaya Via - Balwaquari, Post Office - Hajipur Sadar, District - Vaishali at Hajipur.
9. Sadanand Singh, Son of Late Shital Prasad Singh, Resident of Village - Mihirpur, Police Station - Shambhuganj, District – Banka.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Finance Department, Government of Bihar, Main Secretariat, Patna.
3. The Secretary, Department of Finance, Government of Bihar, Main Secretariat, Patna.
4. The Additional Secretary to the Government, Department of Finance, Main Secretariat, Patna.
5. The Secretary, Department of Minor Irrigation, Vikash Bhawan, Government of Bihar, New Secretariat, Patna.
6. The Engineer in Chief, Department of Tube Well Coordinator, Minor Irrigation, Vishwasaraiya Bhawan, Patna.
7. The Superintending Engineer, Tube Well, Coordinator, Unit Minor Irrigation Department, Vishwasaraiya Bhawan, Patna .
8. The Executive Engineer, Tube Well Division, Hajipur, Khagaria and Tube Well Division, Bhagalpur.



... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra, Advocate
Ms. Manini Jaiswal, Advocate
Ms. Komal Mishra, Advocate
For the State : Mr. Gyan Prakash Ojha, GA 7
Mr. Saughamitra Ghosh, AC to GA 7

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 19-10-2023

On 26.07.2022, the following order was passed.

“Core issue involved in the present petition is whether petitioners are members of the Agriculture Department of Tube Well Department and further whether the petitioners are entitled to pay-scale of Rs. 580/- to 860/- in the Fitter post.

Perusal of the records it is evident that 4th Pay Commission report reveals that such of those Fitters who are working in Agriculture Department are entitled to revise pay of Rs. 580/- to 860/-. On the other hand, such of those Fitters who are working in Tube Well are entitled to revise pay @ 535/- to 765/-.

On this count, learned counsel for the petitioners has to apprise this Court that their services have been absorbed/regularized in the Agriculture Department so as to claim 4th pay revision @ Rs. 580-860. If the petitioners fail to apprise this Court that they are members of the Agriculture Department in that event there is no infirmity in the respondent's decision in reducing the petitioners' Fitters pay from Rs. 580-860/- to Rs. 535-765/-.

Re-list this matter on 28.07.2022.”



2. Thereafter on 26.06.2023 and 05.07.2023, despite the aforementioned orders the official respondents could not apprise this Court to distinguish that such of those Tubewellers were holding the post in the Agriculture Department and the Minor Irrigation Department are entitled to different standards of pay scale.

3. In the instant petition, the petitioners have prayed for the following reliefs:-

“(i) For quashing the order No. 4 dated 04.01.2003 issued under the signature of respondent Joint Secretary and all consequential orders passed there upon whereby and where under the pay-scale of the petitioners from Rs. 580-860 has been reduced to Rs. 535-765 and accordingly the order No. 968 dated 17.12.1992 was set aside with effect from the date of issue vide the impugned order.

(ii) For quashing the order contained in Memo No. 814 dated 25.2.2005 issued under the signature of the respondent No. 3 whereby and where under the claim of the writ petitioners have been rejected.

(iii) For quashing the order contained in Memo No. 957 dated 02.02.2011 passed by the respondent Principal Secretary, Finance Department by which the grievance of the petitioners for grant of the pay- scale of Rs. 4000-6000 with effect from 1.1.1996 has been rejected without application of mind.

(iv) For quashing the order dated 2.2.2011 passed by the respondent Principal Secretary by which the grievance of the



petitioners has been rejected without application of mind.

(v) For direction upon the respondent state and its authorities to grant the pay-scale of Rs. 580-860/- now (4000/-6000/- in new scale) to the petitioners, pursuant to the recommendation of 4th Pay Revision Committee Report.

(vi) Any other order or orders as your Lordships may deem fit and proper in the facts and circumstances of the case.”

4. Earlier, official respondents have extended pay scale of Rs. 580/- to 860/- thereafter on certain administrative decision it is sought to be withdrawn and cancelled which is the subject matter of the litigation.

5. This Court has provided ample opportunity to the official respondents in apprising this Court in producing the relevant material regarding pay scale attached to a particular post like in the present case a Tubewell Department or a different department so as to ignore the claim of the petitioners. Rightly or wrongly Tubewell in the Agriculture Department or Minor Irrigation Department, Fitters post carries pay Scale of Rs. 580/-to 860/-, therefore, the petitioners have made out a case.

6. Accordingly, impugned order no. 4 dated 04.01.2003, Memo No. 814 dated 25.02.2005, Memo No. 957 dated 02.02.2011, stands set aside.



7. If the official respondents have already recovered any amount, the same shall be returned to the respective petitioners after due cancellation and proceed to extent the aforementioned pay scale till their retirement.

8. The application stands allowed in the aforementioned terms.

(P. B. Bajanthri, J)

Anand Kr.

AFR/NAFR	
CAV DATE	
Uploading Date	31.10.2023
Transmission Date	

