

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.743 of 2016

In
Civil Writ Jurisdiction Case No.920 of 2014

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1. Dr. Dharmendra Sinha, Son of late Raghunath Singh, Secretary General, Bihar Veterinary Association, Resident of Office at Vidyapati Marg, P.S. - Kotwali, District – Patna.
 2. Dr. Janardhan Prasad Singh, Life Member of Bihar Veterinary Association son of Late Bachhi Lall Singh Resident of Flat No. 204, Maa Vidya Washing Complex, Sheikhpura, P.S - Sastrinagar, District – Patna. (Since Dead Vide Order Dated 13.12.2019).
 3. Dr. Arvind Kumar, Life Member of Bihar Veterinary Association Son of Late Sukha Singh, Resident of Flat No. 203, Maa Vidya Washing Complex, Sheikhpura, P.S. - Sastrinagar, District – Patna.
 4. Dr. Vijay Kumar Jha, Life Member of Bihar Veterinary Association, Son of Late Devi Kant Jha Resident of Flat No. 206, Officer Hostel , Bailey Road, P.S. - Kotwali, District – Patna.
 5. Dr. Kumod Ranjan, Treasurer Bihar Veterinary Association Son of Rabindra Kumar Singh, Resident of Chitragupt Nagar, Bank Mains Colony, Kankarbagh, P.S. - Patrakar Nagar, Kankarbagh, District - Patna

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar Main Secretariat, Patna-1.
2. Principal Secretary, Finance Department, Government of Bihar, Main Secretariat, Patna – 1.
3. Joint Secretary, Finance Department, Government of Bihar, Main Secretariat, Patna – 1.
4. Additional Secretary, Finance (Resources)-Cum-Secretary Expenditure, Finance Department, Government of Bihar, Main Secretariat, Patna-1.
5. Principal Secretary, General Administration Department, Government of Bihar, Main Secretariat, Patna-1.
6. Principal Secretary, Animal Husbandry and Fisheries Department, Government of Bihar, New Secretariat, Vikash Bhawan, Patna.
7. Accountant General, State of Bihar, Patna.
8. Director, Ministry of Finance, Department of Expenditure, Government of India, New Delhi.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Kishore Kumar Thakur, Advocate Mr. Md. Nazir Ansari, Advocate Mr. Braj Kishore Singh, Advocate
For the State	:	Mr. Nazmul Hoda Khan, SC 1



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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 11-12-2023

The appellants have assailed the order of the learned Single Judge dated 01.02.2016 passed in CWJC No. 920 of 2014. The appellants association and its members have sought for extension of Non-Practicing Allowance with reference to 6th Pay Revision Committee. The same was rejected by the learned Single Judge in its order dated 01.02.2016 passed in CWJC No. 920 of 2014, hence the present Letters Patent Appeal.

2. Perusal of the records, it is undisputed that appellants association is of Veterinary Doctors Association. While executing 5th Pay Revision Committee of Central Government, the State Government proceeded to extend Non-Practicing Allowances. Thereafter question for consideration is whether appellants are entitled to similar benefits with reference to 6th pay revision committee or not. The learned Single Judge has recorded in paragraph nos. 7 and 8 which reads as under:-

“7. There is a series of exchange of pleadings in the present writ application. From those pleadings and notifications, it is the stand of the State counsel that the issue of grant of NPA to Doctors including the



Veterinary Doctors was not adopted or implemented in toto on the basis of the recommendation of the 6th Pay Revision Committee of the Central Government. The State authorities decided to set up a committee to look into the recommendations and come out with their suggestion which may be adopted even by the State of Bihar. The three member committee, which went into the issue, did recommend that NPA could be extended to certain set of Doctors but so far as the Veterinary Doctors are concerned, the committee's recommendation was otherwise. That recommendation of the committee has now been accepted and notified in terms of a notification dated 13.1.2016, which is Annexure- B to the 3rd supplementary counter affidavit of respondent no.2.

8. The emphatic submission of the learned counsel for the State is that the State Government as a conscious decision has decided not to extend the benefit of NPA to the Veterinary Doctors including various Doctors working in the State of Bihar. Merely because the notification has been issued in the year 2016, it does not mean that it has to be prospective in nature. This notification is only certifying the position that the Government was not willing to extend the benefit of NPA to the members of the Association even though the 6th Pay Revision committee of the Central Government did propose so."

3. In other words a conscious decision has been taken by the State Government to not to extend Non-Practicing Allowance to the Veterinary Doctors on par with Health Family Welfare Doctors. No doubt there is a discrimination among the two class of



officers/employees of the State Government in so far as extending Non-Practicing Allowance. At the same time, such extension of Non-Practicing Allowance is a service condition and it is left to the respective State either to accept or not to accept recommendation of the 6th Pay Revision. In other words, it is entirely policy decision of the State Government either to extend or not?

4. The Apex Court in the case of **P. U. Joshi and Ors. vs. Accountant General, Ahmedabad and Ors.** reported in (2003) 2 SCC 632, it is held that employees are not entitled to seek certain benefits of service condition on par with others and they are required to be determined by the State. In para 10 it is held as under:

“10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the Statutory Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules



relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a Government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service.”

5. Recently the Apex Court in the case of **The Union of India & Ors. vs. Rajib Khan @ Ors. in Civil Appeal No. 172 of 2023 (Special Leave Petition (Civil) No. 8083 of 2022)** held that two sets of officers or employees are not entitled to same monetary benefits. It may differ depending upon various factors like Education qualification, cadre, experience and other factors.

6. In view of the aforementioned Apex Court decisions and the fact that State Government has taken a policy decision not



to extend Non-Practicing Allowance to such of those Veterinary Doctors on par with doctors in other departments. The learned Single Judge has rightly declined to grant relief in the petition CWJC No. 920 of 2014, thus, the appellants have not made out a case so as to interfere with the order of the learned Single Judge dated 01.02.2016 passed in CWJC No. 920 of 2014.

7. Accordingly, the Letters Patent Appeal stands dismissed.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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CAV DATE	
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