

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1651 of 2020

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1. Anil Kumar son of Late Raj Narayan Singh resident of Village and P.O.- Kakariyan, Dhansoi, Buxar, District- Buxar (Bihar), Pin- 802117, At present Mohalla Shree Krishna Nagar, near Jagat Press, Ward No. 3, Aurangabad, Post Office- Aurangabad, P.S.- Aurangabad Town, District- Aurangabad (Bihar).
 2. Abhishek Kumar son of Umashankar Sharma resident of Adarsh Nagar, P.O. Aurangabad, P.S. Aurangabad Town, District Aurangabad (Bihar).
 3. Rakesh Kumar son of Late Shekhar Prasad resident of Mohalla New Area, Aurangabad, P.O. Aurangabad, P.S. Aurangabad Town, District Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through its Secretary, Rural Development Department to the Government of Bihar, New Secretariat, Bailey Road, Patna.
2. The District Magistrate cum Chairman, District Rural Development Agency, Aurangabad, P.O. Aurangabad, P.S. Aurangabad Town, District Aurangabad.
3. The Deputy Development Commissioner cum Secretary, District Rural Development Agency, Aurangabad, P.O. Aurangabad, P.S. Aurangabad Town, District Aurangabad.
4. The Managing Director, District Rural Development Agency, Aurangabad, P.O. Aurangabad, P.S. Aurangabad Town, District Aurangabad.
5. The Accountant General Bihar, Patna, Birchand Patel Path, Patna-800001

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Umesh Pathak, Adv. Mr. Uma Kant Mishra, Adv.
For the State	:	Mr. Vikash Kumar (Sc11)
For Accountant General	:	Mr. Bindhyachal Rai, Adv.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 23-06-2023

Heard Mr. Umesh Pathak and Mr. Uma Kant Mishra,
learned counsel appearing on behalf of the petitioners, Mr. Vikash
Kumar, learned counsel appearing on behalf of the State and Mr.



Bindhyachal Rai, learned counsel appearing on behalf of the Accountant General.

2. I.A. No. 1 of 2023 is allowed for the reasons stated in the I.A. and in the affidavit.

3. The petitioners have sought for following reliefs in the writ petition under consideration:-

“1. That the petitioners are invoking the writ jurisdiction of this Hon’ble Court for issuance of a writ of mandamus directing the respondents the petitioners their amount of gratuity and other post retiral benefits in terms of provision under Section 1(3) (C) of the Payment of Gratuity Act, 1972, letter dated 6-9-1997 of the Central Government as well decision the Hon’ble Allahabad High Court dated 7-7-2015 in Special Appeal Defective No. 465 of 2015 as was been done in similarly situated counter parts of this petitioners.”

4. There are three writ petitioners in the present writ petition. The petitioners have given details of service record making specific pleading in the writ petition.

5. Learned counsel appearing on behalf of the petitioners inform this Court that the deceased was posted in D.R.D.A., Aurangabad. The fathers of the petitioners were employee of D.R.D.A., Aurangabad and all of them have claimed parity with one employee namely Anirudh Ojh, who has preferred writ petition bearing C.W.J.C. No. 10653 of 2008, in which after final



adjudication the writ Court has granted similar relief as has been prayed for in the present writ petition, by directing the State Government for absorbing the petitioners in permanent Government service, pursuant to the Government decision and granted all consequential benefits to the petitioners of the said writ petition. Learned counsel inform that father of petitioner nos. 1 and 2 namely Late Raj Narayan Singh and Late Umashankar Sharma respectively were directed to be absorbed in Collectorate in regular establishment of the Government, in compliance of the order passed by the Hon'ble Court in C.W.J.C. No. 17221 of 2014, while father of petitioner no. 3, Late Shekhat Prasad had died in the year 2012.

6. Learned counsel further submits that the law is no more res intergra and petitioners' case may also be considered in light of Judgment dated 27.04.2015, passed in **C.W.J.C. No. 10653 of 2008 (Anirudh Jha Vrs. The State of Bihar & Ors.)**.

7. Learned counsel further submits that the case of the petitioners for regularization in permanent establishment of State Government was taken belatedly and could not be considered along with the cases of other similarly situated employees and without giving benefit during life time of the father of the



petitioners, the petitioners have been forced to file the present writ petition.

8. Learned counsel in the above background submitted that they will file representation before the District Magistrate, Aurangabad, respondent no. 2.

9. Learned counsel appearing on behalf of the State have no objection in the above order as the order is not being passed on merits.

10. Considering the prayer made on behalf of the petitioner, this Court directs the District Magistrate, Aurangabad to dispose of the representation of the petitioner in light of the Judgment passed in case of other similarly situated employees including one namely **Anirudh Jha**, who has preferred **C.W.J.C. No. 10653 of 2008** by a Coordinate Bench of this Court vide order dated 27.04.2015 had granted relief to the petitioners of the said writ petition as has been made in the present case.

11. The State has preferred L.P.A. No. 208 of 2015 against the order dated 27.04.2015, passed in C.W.J.C. No. 10653 of 2008. The Division Bench of this Court after considering the facts of the case as well as the submission made by the State Government had not found any infirmity in the order passed by the learned Single Judge and the same was made absolute and had



directed the State Government to grant relief to the petitioners. The petitioners cannot be deprived of the benefit in terms of the notification of the years 2003 and 2006.

12. In the present case certainly no action was taken by the District Magistrate, Aurangabad at the relevant point of time which delayed the matter at the level of the District Magistrate, Aurangabad and for the said illegal act of the District Magistrate in following the matter the petitioner cannot be allowed to stop the State Government.

13. The order passed by the learned Single Judge was finally affirmed by the Apex Court in Special Leave Petition (Civil) (Diary) No. 27689 of 2018.

14. The District Magistrate, Aurangabad must pass a reasoned order in conformity with the law laid down by this court, which has been affirmed by the Apex Court in case of Anirudh Jha (supra) within a period of six weeks.

15. Accordingly, the writ petition stands disposed of.

(Purnendu Singh, J)

pravinkumar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

