

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.121 of 2022
In
Civil Writ Jurisdiction Case No.8805 of 2021

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1. Shyam Bahadur Sah Son of Raj Kumar Sah Resident of Village - Siswan Purvipatti, P.O. - Gangpur, P.S. - Siwan, District- Siwan.
 2. Surendra Kumar Mandal Son of Bikau Mandal Resident of Village - Damu, P.S. Basopatti, District- Madhubani.
 3. Vikas Ranjan Son of Late Ram Swarup Paswan Resident of Village - Noor Sagar, P.S. - Harnaut, District- Nalanda (Biharsharif).
 4. Md. Irfan Alam Son of Abdul Samad Resident of Village - Rahimpur Rudauli, P.O. - Harpur, P.S. - Aloth, District- Samastipur.
 5. Kumar Gaurav Son of Shivji Chaudhary Resident of Village - Hathsar Ganj, P.O. - Hajipur, P.S. Hajipur, District- Vaishali (Hajipur).
 6. Subhash Chandra Jha Son of Yugeshwar Jha Resident of Village - Mahrail, P.S. - Rudrapur, District - Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Finance, government of Bihar, Patna.
3. The Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Patna.
4. The Commissioner, Tirhut Division Muzaffarpur (Bihar).
5. The District Magistrate, Muzaffarpur.
6. The District Provident Fund Officer Muzaffarpur, Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Yogendra Kumar, Advocate
For the Respondent/s : Mr.Sanjay Kumar Ghosarvey, AC to AAG-3

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-12-2024

The appellants are concerned with their joining in the
Class-III post of Clerk and their assignment of seniority, on the
basis of the joining from the date, on which the other



candidates placed in the same merit list were appointed. The other candidates were admittedly appointed in the year 2005. The present writ petition was filed in the year 2021. The learned Single Judge relying on a decision of the Hon'ble Supreme Court in *Jammu and Kashmir vs. R.K.Zalpuri, AIR 2016 SC 3006*, rejected the claim finding that there is no ground for allowing the prayer at this stage i.e. after about 16 years.

2. Learned Counsel for the appellants specifically pointed out Annexure-10 judgment where a similar case was considered and Annexure-11, wherein there was a direction to consider the representation.

3. Admittedly, the appellants applied under a Notification of 1998 and they were appointed as early as in the year 2008. The appellants' contention is that some of the persons, who were in the merit list, were appointed in 2005 and this created an anomaly, insofar as those persons appointed in 2005 received pension under the old pension scheme, while the persons appointed in 2008 received pension under the new pension scheme, which is a contributory pension scheme.

4. Admittedly, the appellants were paying the contributions as per the new scheme from 2008 onwards. The appellants did not approach this Court at any point of time. The



persons, who had approached this Court in 2016, were granted an order as per Annexure-10, based on which again another writ petition was filed in the year 2019, wherein a representation was directed to be considered.

5. If such orders are continued, it will be unsettling settled position based on the basis of delayed representations. The appellants have no right to claim joining or seniority from a date prior to that in which they actually joined. The appellants, who are in service from 2008, did not challenge their being included under the new pension scheme, which was also contributory in nature, which contributions were being regularly paid by them. At this point, there is no reason to upset the same and we find that there is no reason to allow a representation to be considered on that count.

6. We hence dismiss the appeal.

7. Interlocutory application, if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NA
CAV DATE	
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