

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5441 of 2020

1. Sanjeev Kumar S/o Rameshwar Sah R/o Vill- Patarghat, P.S.- Saurbazar, District- Saharsha, Presently working as Clerk, in Office of District Education Officer, Saharsha.
2. Anil Kumar S/o Jagdish Prasad Yadav R/o Vill- Uda, P.S.- Udakishunganj, District- Madhepura, presently working as clerk, in Office of District Education Officer, Saharsha.
3. Subhash Kumar S/o Late Bhala Mehta R/o Village- Bagbiyani, P.S.- Shankarpur, District- Madhepura, Presently posted as Clerk, in office of School Deputy Inspector, Madhepura.
4. Abhay Kumar Singh S/o Late Deshrath Prasad Singh R/o Vill- Shajadpur, P.S.- Udakishunganj, District- Madhepura presently posted as clerk, in office of District Education Officer, Saharsha.
5. Pawan Kumar Thakur S/o Late Lakshmi Thakur R/o- Fulkaha, P.S.- Jadiya, District- Supaul, Presently posted as clerk, in Teacher Training College Manahara Sukhasan, District- Madhepura.
6. Sanjay Kumar Bharti S/o Late Parmeshwar Rajak R/o Vill- Srinagar, P.S.- Kumarkhand, District- Madhepura, presently posted as Clerk in the office of District Programme Office (Establishment) Supaul.
7. Rajani Kant Ray S/o Late Neelam Ray R/o Vill- Gudarghat, P.S.- Khanpur, District- Samastipur, Presently posted as clerk in the office of District Education Officer Saharsa.
8. Asish Kumar S/o Late Bijendra Prasad Yadav R/o Vill Jaliaya, P.S.- Sourbazar, District- Saharsa, Presently posted as clerk in office of District Education Officer, Madhepura.
9. Md. Noman Alam S/o Late Mustafa Nizami R/o Vill- Bauram, P.S.- Jamalpur, Dist- Darbhanga, Presently posted as Clerk in office of District Education Officer, Madhepura.
10. Chandan Kumar S/o Late Mahendra Prasad Yadav R/o Vill- Laxmipur Ward No.16 Madhepura, P.S. and Dist- Madhepura presently posted as clerk in office of District Institute of Education and Training, Madhepura.
11. Umesh Rishi S/o Late Bashudev Rishi R/o Vill- Ranipatti, P.S.- Kumarkhand, Dist- Madhepura presently posted as clerk in office of District Education Officer, Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director Secondary Education, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Finance Dept. Govt. of Bihar, Patna.
3. The Additional Chief Secretary, Education Dept. Govt. of Bihar, Patna.
4. The Regional Deputy Director of Education Kosi Division, Saharsha.
5. The District Education Officer, Saharsha.
6. The District Education Officer, Madhepura.



7. The District Education Officer, Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Alok Kumar Singh
For the Respondent/s : Mr.Madhaw Pd. Yadaw (Gp23)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 25-04-2024 Heard learned counsel for the petitioners. No one appears on behalf of the State though counter affidavit is on record.

2. The present writ petition has been filed directing the respondents for payment of current and arrears of salary in revised scale of Rs. 4000-6000/- in place of current pay scale Rs. 3,500-4,590/- to the petitioner from the date of joining.

3. Learned counsel for the petitioner submits that petitioners were appointed as Clerk on compassionate ground in Kosi Division, Saharsa on different dates and vide different memos by the competent authority after following the due process of law. Learned counsel further submits that the State has decided to make the payment to fix the different pay scale to those persons who were appointed through the channel of compassionate ground and those persons who were not appointed through channel of compassionate ground. The



petitioners submits to this Court that the pay parity ought to be maintained due to the reason that both are working on the same post. Learned counsel further submits that in this regard, the other persons having same grievances, have preferred writ petition before this Hon'ble Court and in one of the case i.e LPA No. 167 of 2016 in the case of **Avinash Kumar Chakerwarty and Ors. Vs. State of Bihar** relief was granted and this Hon'ble Court has pleased to pass the order as under-

“This appeal is allowed the order impugned dated 29.10.2015 passed in CWJC No. 1498 of 2011 is quashed. The petitioners have directed to be paid the benefit of the scale of 4000-6000 retrospectively w.e.f. the date of appointment. However, arrears of petitioners are only to be granted w.e.f the date they filed the writ petition before the High Court i.e w.e.f. 21.01.2011.

With the aforesaid, the appeal stands allowed and disposed of.”

4. Learned counsel for the petitioners further submits that the case of the petitioners is exactly identical to the case decided by the Hon'ble Division Bench. Learned counsel further submits that in the counter affidavit filed by the State the only point has been taken that since the order passed in LPA No. 167 of 2016 has been challenged in Civil Review No. 236 of 2019 which is still pending before this Court for final adjudication and therefore, petitioner's claim cannot be granted at this level.



5. After having heard learned counsel for the petitioners and perusal of the counter affidavit filed by the State it transpires to this Court that the relief demanded by the petitioners ought to be considered by the State in the light of Clause-4C of the Bihar State Litigation Policy 2011.

6. It also transpires to this Court that the similar issue which has been raised in Civil Review 236 of 2019 is the subject matter of LPA No. 669 of 2021 in which following observation has come:-

“(i) In my opinion, in view of the conflicting views taken by the Division Benches of this Court in case of Smt. Mosarat Arra Khanam (supra) on the question as to whether the persons appointed on compassionate basis in the scale of Rs. 3050-4590/- can claim by way of right a higher pay-scale of Rs. 4000-6000/- on the doctrine of parity in pay-scale, the matter needs to be placed before Hon’ble the Chief Justice for referring the same to a larger bench.

(ii) Let the matter be placed before Hon’ble the Chief Justice accordingly.”

7. In the light of the said observation, this writ petition is hereby disposed of directing the petitioners to file their representation before Respondent No.4 namely *The Deputy Director of Education, Kosi Division, Saharsa* who shall consider and disposed off the representation within 90 days after final result of LPA No. 669 of 2021 with Civil Review No. 239



(Dr. Anshuman, J)

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