

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9910 of 2016

1. Sanjay Kumar son of Late Kali Singh resident of village and P.S. Fatehpur, District Gaya.
2. Vijay Kumar son of Late Budhan Yadav resident of village Madanbiga, P.S. Fatehpur, District Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Chief Engineer, Water Resources Department, Bhagalpur.
3. The Superintending Engineer, Water Ways Circle, Jamui.
4. The Executive Engineer, Water Ways Division, Sheikhpura.
5. The Chief Engineer, Irrigation Creation , Water Resources Department, Nalanda, Bihar Sharif.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shiv Kumar, Advocate
For the Respondent/s : Mr.Suresh Kumar, A.C. to G.P.-1

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 25-01-2024

Learned counsel for the petitioners are permitted to implead the Chief Engineer, Irrigation Creation , Water Resources Department, Nalanda, Bihar Sharif as respondent No.5 in course of the day.

2. Heard learned counsel appearing for the petitioners and learned counsel appearing for the State.

3. The petitioners have approached this Court for providing minimum time scale of pay in light of order dated 16.12.2004 passed in CWJC No.9602 of 1999.



4. Learned counsel for the petitioners submits that pursuant to the order dated 16.12.2004 passed in CWJC No.9602 of 1999, the respondents have paid more altogether than 71 persons to minimum time scale of pay with effect from 01.02.1999 and petitioners have not been given the minimum time scale of pay. Further submits that the State authorities is trying to litigate the matters and due to one reason or other reason always tried to not give the benefit of minimum time scale of pay to the petitioners. Further submits that it is clear from the aforesaid that the concerned respondent authorities are not paying the minimum time scale of pay to the petitioners from 01.02.1999 and they have already paid minimum time scale of pay to 71 similarly situated persons including juniors to the petitioners. Learned counsel for the petitioners further relied upon the litigation policy of the Bihar Government particularly in view of para-4(C) (i) of the Bihar State Litigation Policy, 2011, which is binding upon the respondents that where the Court pronounces on an issue, the concerned authorities are required to accord similar treatment to all concerned similarly situated persons instead of multiplying litigation by asking them to bring individual order meaning thereby that where relief is granted in writ proceedings to certain persons then the authority must grant the same benefits to all similarly situated persons even if such



persons had not approached the Court and were not a party to the said litigation.

5. Learned counsel for the petitioner relied upon the judgment in the case of **Ajay Kumar Srivastava Vs. The State of Bihar & Ors**, reported in **2006 (3) PLJR 573**, para-6 of the said judgment which reads as follows:

“6. Learned Counsel for the petitioner assails the actions of the State authorities relying upon the direction of this Court whereby the entire order dated 2.1.99, which relates to this petitioner also, had been put in abeyance by the order dated 14.3.2000 of this Court and thus, the benefit of that order should be given to the petitioner also as there was no justification for the State authorities to not reinstate the petitioner in terms of the said order although he was not a party to the said writ petition. In this regard learned Counsel has referred to a large number of decisions of the Supreme Court wherein it has been laid down that where relief is granted by the Court in writ proceedings to certain persons then the authority must grant



the same benefits to similarly situated persons even if such persons had not approached the Court and not a party to the said litigation. There is no need to refer to the said judgments as proposition of law is well established. The order dated 14.3.2000 was not passed by the Court on any fact which was related to the petitioners of those cases and do not apply to the case of the present petitioner. The petitioner is identically situated to the petitioners of C.W.J.C. No. 569/99 and, thus, the benefit of the said order should have been granted to him also by the state authorities. In fact, by the order dated 14.3.2000 this Court clearly directed that till regular appointment is made, the impugned order dated 2.1.1999 shall remain in abeyance. In view of the said order the State authorities were obliged to reinstate the petitioner in service also and their not doing so borders upon contempt of the order of this Court, which has been upheld by the Supreme Court.”



6. Learned counsel further relied upon the judgment in the case of **Binti Devi & Ors Vs. The State of Bihar & Ors**, reported in 2009 (4) PLJR 844, para-5 of the said judgment which reads as follows:

“5. Prima facie this Court is satisfied that the grounds mentioned in the impugned order dated 27.9.2008 are not sustainable in view of the order of this court in CWJC No. 14222 of 2008. Since an issue has been decided by the Court, the respondent State is required to examine all cases where a person claims to be covered by that order. The state cannot insist on an individual for bringing individual orders from this Court. The effect of that is that the State authorities only seek to cast their own administrative burden on this Court and seek the easier way out that there is an order of this Court which must be complied with”.

7. Learned counsel further relied upon the judgment in the case of **Reema Kumari Vs. The State of Bihar & Ors**, reported in 2011 (2) PLJR 267, para-11 of the said judgment which reads as follows:



“11. This Court in context of the very present controversy has already observed in more than one orders relying upon pronouncements of the Apex Court that where the Court pronounces on an issue, the State authorities are required to accord similar treatment to all concerned similarly situated in stead of multiplying litigation by asking them to bring individual orders”.

8. Learned counsel further submits that in view of the aforesaid, the respondents authorities are required to give benefit of minimum time scale of pay to the petitioners from 01.02.1999 and the authorities have not given the benefit of minimum time scale of pay to the petitioners and in view of the order dated 16.12.2004 passed in CWJC No.9602 of 1999, the respondents authorities are required to give benefit of minimum time scale of pay to the petitioners from 01.02.1999.

9. Learned counsel for the State submits that the claim of the petitioners is stale claim and they have filed the writ application in the year 2016 and they are claiming minimum time scale of pay with effect from 01.02.1999.



10. Considering the facts and circumstances of the case, the respondent No.5 is directed to examine/consider for providing minimum time scale of pay to the petitioners in light of Bihar State Litigation Policy, 2011 as well as the judgment /order dated 16.12.2004 passed in CWJC No.9602 of 1999 mentioned in the aforesaid and pass a reasoned order within a period of three months from the date of receipt/ production of a copy of this order and if the respondent No.5 finds the similarly situated persons have already been granted benefit of minimum time scale of pay with effect from 01.02.1999, the same benefit will also grant to the petitioners and the arrears of salary of the petitioners will also grant to the petitioners within a period of further three months.

11. With the aforesaid direction and observation, this writ application is disposed of.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2024
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