

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8275 of 2024

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1. Chandra Shekher Sinha Son of Late Bandi Prasad, Resident of Mohalla-Sherpur (Kayastha Tola), Muzaffarpur, P.S- Muzaffarpur, Sadar, District- Muzaffarpur.
 2. Mahesh Prasad Srivastava, Son of Late Nageshwar Prasad, resident of Mohalla- Jagdishpuri, Muzaffarpur, P.S- Mithanpura, District- Muzaffarpur.
 3. Baidyanath Prasad Gupta Son of Late Mahadeo Prasad Gupta, resident of Village- Kanti, P.S- Kanti, District- Muzaffarpur.
 4. Syed Ali Ahmad, Son of Late Syed Mustafa Hussain, resident of Village Hassanchak Bangra P.S- Muzaffarpur, Sadar, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Water Resources Department, Sinchai Bhawan, Main Secretariat, Patna.
2. Engineer-in-Chief (Flood Control and Drainage), Water Resources Department, Sinchai Bhawan, Main Secretariat, Patna.
3. Chief Engineer, Flood Control and Drainage, Water Resources Department, Government of Bihar, Muzaffarpur.
4. Additional Chief Secretary, Finance Department, Government of Bihar, Main Secretariat, Patna.
5. Superintendent Engineer, Flood Control and Drainage, Water Resources Department, Government of Bihar, Sitamarhi.
6. Executive Engineer, Water Drainage Division, Water Resources Department, Government of Bihar, Muzaffarpur.
7. Executive Engineer, Planning Design Division, Water Resources Department, Government of Bihar, Muzaffarpur.
8. Executive Engineer, Bagmati Division, Water Resources Department, Runni Saidpur, Sitamarhi.
9. Executive Engineer, Planning Design Division no-1, Water Resources Department, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kishore Kumar Thakur, Advocate.
		Mr. Braj Kishore Singh, Advocate.
For the Respondent/s	:	Mr. Raghwanand, GA-11.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 28-11-2024



Heard learned counsel appearing on behalf of the petitioners and learned counsel for the State.

2. The petitioners in paragraph no. 1 of the present writ petition have, *inter alia*, sought following relief(s), which is reproduced hereinafter:

“For a direction to the respondents to re-fix the pension and other retiral dues of the petitioners after allowing them the pay scale of Rs. 6500-10500 with effect from 09- 08-1999, on grant of 1st ACP to them and further higher pay scale of Rs 10000-15200 with due dates on grant of 2nd MACP to them as well as allowing them the benefit of 3rd MACP with due dates, in terms of resolution no 163 dated 08.01.2016, issued by the Finance department of the respondent State and in the light of the common judgment and order rendered in C.W.J.C. no. 18433 of 2016 and other analogous cases, which judgment and order stands affirmed by the Hon'ble Supreme Court in SLP (C) nos. 8219-8226 of 2019 and other S.L.Ps.

(ii) For a further direction to the respondents to make payment of arrears of salary admissible to the petitioners as a result of grant of such ACP/MACP to them in the revised pay scale indicated above, taking into consideration that the other similarly situated Accounts Clerks, who have retired in between the period 2015 to 2017, have been granted such benefit in compliance of the common judgment and order rendered in CWJC no. 18433 of 2016 affirmed by the Hon'ble Supreme Court.”

3. Petitioners are aggrieved by non consideration of their several representations, as well as, their representations dated 02.04.2024 and 15.04.2024 (Annexure P-8 series) in light of Clause 4 C (1) of the Bihar State Litigation Policy, 2011 and the judgment passed by the Apex Court in ***S.L.P. No. 8219-8226 of 2019 (Amresh Kumar Singh & Ors. ETC. vs. The State of Bihar & Ors. ETC.)***, as well as, the government notification to comply with the law laid down by the Apex Court as contained in Letter No. 3A-Muka.-136/2019 dated 28.02.2024. The



concerned authority for the reason best known to him, is sitting tight over the representation of the petitioners.

4. It has further been informed by the learned counsel appearing on behalf of the petitioners that the curative petitions being **Curative Petition No. 000137/2024 (State of Bihar Vs. Nand Kishore Singh)** and **Curative Petition No.000138/2024 (State of Bihar Vs. Amresh Kumar Sinha)** have been rejected vide order dated 29.08.2024 by the Hon'ble Supreme Court and there is no reason why Finance Department is creating hurdle in respect of the petitioners for granting relief as prayed for in the present writ petition.

5. Learned counsel appearing on behalf of the State informs that the matter can well be considered by the Chief Engineer, Flood Control and Drainage, Water Resources Department, Muzaffarpur – respondent no.3, in light of the law laid down by the Apex Court in case of **Amresh Kumar Singh (Supra)** and in light of Clause 4 C (1) of the Bihar State Litigation Policy, 2011 for considering to grant relief as prayed for in the present writ petition to the petitioners.

6. Considering the rival submissions made on behalf of the parties, as well as, the admitted fact that the case of the petitioners is covered by the judgment passed by the Apex Court



in case of ***Amresh Kumar Singh (Supra)***, the petitioners are directed to file fresh detailed representation before the competent authority.

7. In above view of the fact, I direct the Additional Chief Secretary, Finance Department to inform all the departments of the State Government in respect of the applicability of the law laid down by the Apex Court in the case of ***Amresh Kumar Singh (supra)***, so that the respective Head of the Department, in the present case i.e. respondent no.3 can take a decision and communicate to the controlling officer of the petitioners to take a conscious decision in respect of the relief as prayed for in the present writ petition, so that the petitioners can not be discriminated for having their case not been considered for a long time in spite of specific legislation of the State Government for disposal of such cases in which law has been laid down by the Apex Court in light of the Bihar Litigation Policy, 2011.

8. The competent authority (concerned respondent), in case, finds that any document is required from the petitioners, the petitioners should be given due opportunity to provide the same and, in case, he finds that the case of the petitioners is not similar to the other employees, in whose cases, the Hon'ble



Supreme Court has laid down the law in case of *Amresh Kumar Singh (Supra)*, then, after providing due opportunity of hearing to the petitioners, a conscious decision is required to be taken by him in accordance with law giving reasons, as to why, the case of the petitioners is not covered by the *Amresh Kumar Singh (Supra)* and don't require to be considered in light of Bihar Litigation Policy, 2011.

9. With above observations/directions, the present writ petition is disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.11.2024
Transmission Date	NA

