

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9141 of 2023

-
1. Vijay Kumar Bhargav Son of Chhote Lal Das Resident of Village-Khagaur Behind Central Bank, P.O.-Kiul R.S., P.S. and District-Lakhisarai.
 2. Anil Kumar Singh Son of Lakshmi Narayan Singh Resident of Village-Ghosaith, P.O.-Piri Bazar, P.S.-Piri Bazar Ghuset, District-Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Deputy Secretary, Finance Department (Pay Fixation), Govt. of Bihar, Patna.
5. The Director, Primary Education, Govt. of Bihar, Patna.
6. The District Education Officer, Jamui, District-Jamui.
7. The District Programme officer, (Establishment) Jamui, District-Jamui.
8. The District Treasury Officer, Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mukul Jee, Advocate
For the Respondent/s : Smt. Binita Singh (Sc28)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 27-11-2024 Heard the parties.

2. This writ application has been filed for directing the respondents to pay the trained scale payment to the petitioners with three increments with effect from from their respective dates of appointment to till dates of their retirement and accordingly fix their pension and pay them retiral dues.

3. Learned counsel appearing on behalf of the petitioners submits that case of the petitioners is squarely



covered by the Judgment of this Court in CWJC No.8333 of 1999 (Shiva Kant Jha Vs. The State of Bihar & Ors.) wherein the Co-ordinate Bench of this Court on consideration of the resolution dated 18.12.1999 held as follows:

“According to this clause the persons who have been appointed on or after 1st January, 1986 but before issue of the orders i.e. 18.12.1989 it would be deemed that their appointments have been made in the revised scale subject to the provisions made in subsequent paragraphs of the said Resolution. Schedule-III is in relation to fixation of pay in the revised scale. It says that fixation of pay of Government servants both gazetted and nongazetted, who were in services on 01.01.1986 shall be made in the revised scale of pay at a stage to be determined in accordance with Schedule-III. Clause 1 says that the present emoluments will be worked out as on 1st January, 1986 and will include (1) the basic pay on 01.01.1986 and (2) D.A./ad-hoc D.A. admissible at index average 608. Paragraph 2 says that to the present emoluments will be added a sum equivalent to 35% of the basic pay in the existing scale subject to a minimum of Rs. 175 and maximum of Rs. 700. According to paragraph-3, the total of present emoluments and the ‘additional sum’ will be called ‘Pre-Fixation Emoluments’. Paragraph 4 says that the ‘Pre-Fixation Emoluments’ will be fitted in the revised scale of pay as provided in paragraph-4. From Annexure-3 it



would appear that the petitioner was appointed in the scale of Rs. 730-1080; on the date of his fixation of the pay, his D.A. as admissible on 01.01.1986 on 608 points index average was 394.20. Adding the above two, his salary was Rs. 1124.20. This would be the 'present emoluments' to which additional sum' at 35% is to be added which would come down to 255.50. The petitioner's total emoluments for the purposes of pay fixation would be Rs. 1379.70, the round of which would be Rs. 1380. To this the benefit of three increments is to be added in accordance with paragraph 6 of Schedule-III of the said resolution. Paragraph 6 says that after fixation of pay in the revised scale with effect from 01.01.1986, to this is to be added the benefit of three increments. Paragraph-6 says that after fixation of pay in the revised scale with effect from 1.1.1986 three increments will be allowed to the Intermediate untrained/Intermediate trained/ Graduate untrained teachers who get their pay fixed in the scale of Rs. 1200-2040 in revised scales. Each increment would be Rs. 30 as is clear from Schedule-I. To the total amount of Rs. 1380 three increments of Rs. 30 each totaling to Rs. 90 is to be added and the salary of the petitioner would be Rs. 1470 as on 20.4.1988. If that could be the calculations in accordance with the Resolution and it was so fixed by the Headmaster on 15.03.1990 and an entry to that effect was made in Annexure-4 under the signatures of the Headmaster then there was no scope for the District Accounts Officer to hold that the



petitioner's salary on 01.01.1986 would be zero, therefore, on application of the revised pay scale from Rs. 730-1080 to Rs. 1200-2040 the petitioner would be fixed at the minimum of Rs. 1200 and would be entitled to the benefit of three increments i.e. Rs 90 only.

In the opinion of this Court a fair understanding of the Resolution of the Government and its proper application would show that petitioner's pay fixed in Annexure-3 was in accordance with the Resolution and there was no violation of any clause or any paragraph of the Schedules annexed or appended to the said Resolution. The endorsements made in the service book of the petitioner under the signatures of the District Accounts Officer are quashed. It is further directed that the recovery ordered by the District Accounts Officer shall not be made from the salary of the petitioner. The petition is allowed."

4. Learned counsel for the petitioners further submits that relying on the said decision this Court has also granted indulgence and allowed the writ application *vide* order dated 17.9.2018 in CWJC No. 24896.

5. Considering the aforesaid writ application is allowed, the respondents have to examine the claim of the petitioners in the light of the decision in CWJC No. 8333 of 1999 dated 29.7.2004 and decision in CWJC No. 24896 of 2013 dated 17.9.2018 and pass appropriate order within a maximum



period of four months from the date of receipt / production of a copy of this order.

6. If, petitioners are found entitled and case of the petitioners is found similar to that of the petitioners in the aforesaid cases, then consequential benefits shall also be extended to the present petitioners.

7. With the aforesaid observation, the writ petition stands disposed of

(Prabhat Kumar Singh, J)

Navya/-

U			
---	--	--	--

