

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10690 of 2024

Gunjan Vishal Son of Late Kameshwar Prasad Sinha Resident of Sector-7,
Block No.4, Flat No.2, HIG, Bhootnath Road, P.S.-Agamkuna, District-Patna.
Presently Posted as Accountant/ Clerk in the Bihar Special Armed Police-4,
Dumraon, Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Chief Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The Additional Chief Secretary, Finance Department, Government of Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Inspector General of Police (Headquarter), Bihar, Patna.
6. The Commandant, Bihar Special Armed Police-4, Dumraon, Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vinay Ranjan, Advocate Mr. Praveen Kumar, Advocate
For the Respondent/s	:	Mr. Ajit Kumar, GA-9

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 23-07-2024 The petitioner seeks pay parity with the Lower Division Clerk on the basis of the judgment passed in L.P.A. No. 167/2016, CWJC No.25689/2019, CWJC No.17151/2018 and CWJC No.6661/2021. It is not in dispute that the petitioner prayed for compassionate appointment in the year 1998, on the death of his father in harness. Due to lengthy process of granting compassionate appointment, he was appointed on compassionate ground as Lower Divisional Clerk on 23.12.2000.

2. At this stage, a background involving disparity of



pay scales amongst the Lower Divisional Clerks is required to be stated. Before 1997 in the State of Bihar there were two cadres of Clerk-Lower Divisional Clerk and Upper Divisional Clerk. Subsequently, these two cadres were directed to be merged and after merger, they used to get one pay scale at the rate of Rs.4000-6000/-. On 20.12.2000, again the cadre of Clerks was de-merged into Lower Divisional Clerk and Upper Divisional Clerk, pay scales were also made different. Series of writ petitions were filed by the aggrieved employees stating inter-alia that they are entitled to receive pay scale at the rate of Rs.4000-6000/- on the basis of parity, which was effected after the merger of the Lower Divisional Clerk and Upper Divisional Clerk. It is also pleaded that payment of some of the clerks cannot be differentiated on the ground of equal pay for equal work.

3. In L.P.A. No.167 of 2016, it was held by the Division Bench of this Court that the petitioners being the Members of the cadre of Lower Divisional Clerk are entitled to pay the benefit of scale of pay of Rs.4000-6000/- retrospectively, w.e.f. the date of appointment. However, arrears of the petitioners are only to be granted w.e.f. the date they filed the writ petition before the High Court.



4. On the basis of the decision, rendered in the said appeal, several writ petitions, viz., CWJC No.17617/2022, CWJC No.6670/2023, CWJC No.15309/2021, CWJC No.11759/2021, CWJC No.16403/2022, CWJC No.11367/2022, CWJC No.1877/2021, CWJC No.13428/2022, CWJC No.17926/2022, CWJC No.13990/2018, CWJC No.7335/2018 & CWJC No. 9921/17, were disposed of in favour of the petitioner.

5. It is submitted by the learned Advocate on behalf of the petitioner that the petitioner stands in the same footing, the process of his compassionate appointment was started in the year 1998 and he was appointed on 23.12.2000. Since, the process of appointment was started before 20.12.2000, when de-merger order was passed, he cannot be said to be affected by the said de-merger in respect of scale of pay.

6. Learned counsel on behalf of the State, on the other hand, refers to a decision of this Court, in the case of ***Ravi Shankar Kumar Vs. The State of Bihar & Ors.*** passed in CWJC No.23831 of 2018 decided on 01.10.2021, wherein the Coordinate Bench noticed that the Division Bench of this Court in Smt. Mosarrat Ara Khanam & Ors. Vs. The State of Bihar and others (CWJC No.10441 of 2010) held that there was no



error in the decision granting pay scale of Rs.3050-4590/- for those appointed on compassionate basis after the date of de-merger. The said order passed in the aforesaid writ petition was affirmed by the Division Bench in L.P.A. No.100 of 2012. Thus, finding contradiction between the decisions passed in ***Smt. Mussarat Ara Khanam and Avinash Kumar Chakerworthy and others Vs. State of Bihar and others*** (LPA No.167 of 2016), the Coordinate Bench in CWJC No.23831 of 2018, referred the matter before the Larger Bench for decision. Until and unless, the said reference is decided by the Larger Bench, any order with regard to revision of pay in favour of the petitioner will be on the teeth of the reference before Larger Bench.

7. Having heard the learned counsels for the parties and on perusal of the entire materials on record, this Court finds that the Collector, West Champaran at Bettiah passed an order on 07.03.2024 taking into consideration all the judgments passed by this Court to grant relief to the similarly situated employees in terms of the order passed in LPA No.167 of 2016. The pay scale of the writ-petitioners were fixed at Rs.4000-6000/- subject to submission of an undertaking that if the pay scale is revised in the decision to be rendered by the Larger



Bench or in review of the decision of LPA No.167/2016, the petitioners shall deposit the balance amount to the Collectorate.

8. This Court is of the view that without keeping the instant writ petition pending, the same can be disposed of in the same line of decisions taken by this Court in several writ petitions mentioned herein above.

9. In view of such circumstances, this Court is of the opinion that the petitioner is entitled to get a pay scale of Rs.4000-6000/- from the date of his appointment as the process of his appointment was started in the year 1998, i.e., before the order of de-merger came into force, subject to submission of an undertaking by way of affidavit that he shall pay the balance amount to the Collectorate within one month from the date of communication of the order. If the order passed in L.P.A. No.167 of 2016 is over turned in reference to the Larger Bench or in the review, which has been filed by the State.

10. With the above order, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

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