

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8603 of 2018

1. Shiw Kumar Sah and Ors son of Late Radha Sah resident of Mohalla New Basti Lalu Nagar Purbi Kargahia P.O. Barwat Pasrain, P.S. Bettiah Muffasil District West Champaran at Bettiah.
2. Sanjay Kumar Jha son of Rup Narain Jha resident of Mohalla Tharbitia P.O. Tilath P.S. Phulparas, District Madhubani.
3. Bhaskaranand Giri son of late Ram Nand Giri Resident of Mohalla Majadhai, Ward No. 15, Near Postal and Telegraph Colony, P.O. Samastipur, P.S. Samastipur, District Samastipur.
4. Awadhesh Kumar son of Sri Ram Uday Thakur resident of Hari Shankar Maniyari, P.O. Silout, District Muzaffarpur.
5. Ajit Kumar Jha son of Sri Ram Chandra Jha resident of Lane No. 2, Nagendra Nagar, Bela Road, Mithanpur, P.O. Ramna District Muzaffarpur.
6. Rajeev Ranjan son of Sri Ramakant Jha resident of Mohalla Chanakya Nagar Vihar, Gobarsahi, P.O. Khabra, District Muzaffarpur.
7. Abhay Kumar Yadav son of Late Laxmi Narayan Yadav resident of Mohalla Kalgama, P.O. Tilakpur, P.S. Sultanganj, District Bhagalpur.
8. Samit Kumar son of Late Nabin Prasad Shukla resident of Mohalla Sachchida Nagar, P.O. Tilka Manjhi, P.S. Tilka Manjhi, District Bhagalpur.

... .. Petitioner/s

Versus

1. The Life Insurance Corporation Of India
2. The Managing Director, Life Insurance Corporation of India having its Central Office at Yogakshema,
3. The Executive Director Personnel, Life Insurance Corporation of India having its Central Office at
4. The Zonal Manager, Life Insurance Corporation of India, Jeevan Deep 4th Floor, East Central Zone, E
5. The Senior Divisional Manager, Life Insurance Corporation of India, Divisional Officer, Jeean Praka
6. The Senior Divisional Manager, Life Insurance Corporation of India, Begusarai Division Office, Deep
7. The Branch Manager, Life Insurance Corporation of India, Bettiah Branch Office, BIADA Industrial Ar
8. The Branch Manager, Life Insurance Corporation of India, Samastipur Branch Tajpur Road, Samastipur. null null
9. The Branch Manager, Life Insurance Corporation of India, Sitamarhi Branch Sitamarhi.
10. The Branch Manager, Life Insurance Corporation of India, Muzaffarpur Branch - 1, U.S. Prasad Marg,
11. The Branch Manager, Life Insurnace Corporation of India, Muzaffarpur Branch III, U.S. Prasad Marg,
12. The Branch Manager, Life Insurance Corporation of India, Khagaria, M.G.

Road Kharia Branch, Khagari

- 13. The Union of India through the Secretary, Department of Financial Services, Ministry of Finance, Je
- 14. The Secretary, Department of Ex-Servicemen Welfare, Ministry of Defence, South Block New Delhi - 11

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Gautam, Adv.
For the L.I.C.	:	Mr. Rakesh Kumar, Adv.
		Mr. Abhimanyu Vatsa, Adv.
		Mr. Sameer Sawarn, Adv.
For the U.O.I.	:	Mr. Subodh Kumar Jha, Sr. C.G.C.

=====

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 30-07-2024 Heard learned counsel for the petitioners, learned

counsel for the Life Insurance Corporation of India and learned

counsel for the Union of India.

2. The present writ application has been filed for the
following relief(s):-

“(i) For quashing of the Circular dated 06.01.2017 issued vide reference CO/PER/ERA/147/2017 by the respondent no. 3 (Annexure-7) by which the Pay-fixation of ex-servicemen/ Ex-ECOS/ SSCDS re-employed in L.I.C of India on or after 01.01.2006 without taking into notice of the Circular dated 02.06.1989 as well as two Amendment Rules, 2010 and 2016.

(ii) For quashing of the impugned orders (Annexure-8 Series) by which the pay of the petitioners have been reduced since

01.06.2009 and 29.06.2009 and further ordered to recover the difference amount following the guidelines of Circular dated 06.01.2017 since the impugned orders (Annexure-7 Series) are in utter violation of principles of natural justice because no any notice or opportunity has been given before passing the orders.

(iii) For taking into account of Circular dated 02.06.1989 as well as the Amended Rules, 2010 the pay structure of the petitioners may be restored as before.

(iv) For any other relief/reliefs as deem fit and proper since the petitioners are the ex-servicemen, employed in the respondents Corporation appointed on 01.06.2009 (petitioner no. 7 and 8) and the rests are on 29.06.2009 as Assistant of the Corporation.”

3. Learned counsels for the petitioners and Life Insurance Corporation of India submit that the issue involve in the present writ petition has been squarely covered from the judgment of the Co-ordinate Bench of this Court dated 30.08.2022 passed in C.W.J.C. No. 16872 of 2018 in which the operative part of the order states as follows:-

“6. Having held so, this Court is required to consider whether the respondents can be permitted to effect any recovery based on

the impugned order dated 06.01.2017. The answer must be in negative. The guidelines of the Government of India based on which the impugned order has been issued by the respondent corporation is dated 17.12.2014. Corporation has issued the impugned order purporting to implement the same with effect from January 2017. The petitioners clearly cannot be held liable to recovery of pay which they have received prior to issuance of the impugned letter regarding pay-fixation dated 06.01.2017, for the simple reason that the corporation itself has not been diligent to issue the consequential orders immediately after issuance of the guidelines dated February, 2014. The petitioners cannot be made to suffer by way of recovery in the circumstances. In so far as the consequence of recovery arising out of the impugned letter dated 06.01.2017, this Court would observe that the same is legally unsustainable for the reason indicated above. The respondent-Corporation, however, will be at liberty to give effect to the fixation in terms of communication dated 06.01.2017 with prospective effect.

7. Application is allowed to the extent indicated above.”

4. In the light of the ratio decided by this Court, this writ petition is allowed to the extent that the impugned order dated 06.01.2017 shall not be effective and petitioners cannot be held liable to the recovery of pay which they have received prior to issuance of the impugned letter regarding pay fixation dated 06.01.2017.

5. Learned counsel for the Union of India submits that the said order has been challenged before the L.P.A. Bench in L.P.A. No. 770 of 2022 which is still pending.

6. In this regard, the question of recovery and effect of fixation in terms of communication dated 06.01.2017 shall be subject to the result of L.P.A. No. 770 of 2022.

7. Accordingly, the present writ application stands disposed of.

(Dr. Anshuman, J)

sadique/-

U			
---	--	--	--