

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8494 of 2012

1. Raj Kumar Ray Son of Shri Yogendra Ray Resident of Mohalla- Kadam Kuan, Janak Kishore Road, Police Station - Kadamkuan, District - Patna
2. Vinay Kumar Son of Shri Surendra Prasad Gupta, Resident of Mohalla - New Patna Colony, Beur, Police Station - Beur, District - Patna
3. Satish Prasad Singh Son of Shri Umesh Prasad Singh, Resident of Mohalla - East Indira Nagar, Road No. 1, Lohia Nagar, P.S. - Kankarbagh, District - Patna
4. Sanjay Kumar Son of Shri Bishnudeo Prasad Resident of Mohalla - Sudamaouri Chapra Colony, New Jakkanpur, Police Station - Jakkanpur, District - Patna
5. Bachandeo Kumar Sinha Son of Shri Sidheshwar Prasad Resident of Village - Bajiachak, Post Office - Katrisarai, District - Patna
6. Nityanand Prasad Singh Son of Shri Satish Prasad Resident of Langer Toli Gali, Nala Road, Police Station - Kadamkuan, District - Patna
7. Vijay Kumar Son of Shri Rameshwar Prasad Resident of Chandpur Bela, Jakkanpur, Police Station - Jakkanpur, District - Patna
8. Akhileshwar Kumar Son of Shri Yogendra Narayan Singh Resident Of Village - Bikrampur, Police Station - Fatuha, District - Patna
9. Kusum Singh Wife Of Shri Kamlesh Kumar Resident of Mohalla- New Jakkanpur, Sudamapuri Chapra Colony, Police Station - Jakkanpur, District- Patna
10. Raj Kumar Son of Shri Harihar Mahto Resident of Mohalla- Ram Krishna Nagar, New Bypass, Police Station - Ram Krishna Nagar, District - Patna
11. Nishant Malay Son Of Shri Sushil Kumar Sinha Resident Of Mohalla- New Yarpur, Gardanibagh, Police Station - Gardanibagh, District - Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Finance Department, Bihar, Patna
3. The Principal Secretary, Art, Culture and Youth Affairs Department, Bihar, Patna
4. The Director, Student and Youth Welfare, Department Of Art, Culture And Youth Affairs, Bihar, Patna
5. The Director General, National Cadet Corps Directorate, West Bloc-4, R.K. Puram, New Delhi - 110066
6. The Additional Director General, National Cadet Corps Directorate, Bihar And Jharkhand, Rajendra Pa
7. The Deputy Director General, N.C.C. Directorate Bihar And Jharkhand, Rajendra Path, Patna
8. The Director, National Cadet Corps Directorate, Bihar And Jharkhand,



Rajendra Path, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Suresh Kumar, Advocate
For UOI (NCC) : Mr.Ram Tujabh Singh, Advocate
For the Res./State : Mr.Ajay GA 5
Mr.Akash Raj, AC to GA 5

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 07-05-2024

Heard Mr. S.N. Yadav along with Mr. Suresh Kumar, learned counsels appearing on behalf of the petitioners; Mr. Ram Tujabh Singh, learned counsel for the Union of India (NCC) and Mr. Ajay (GA 5) along with Mr. Akash Raj (AC to GA 5), learned counsels for the Respondents/State.

2. In paragraph no.1 of the present writ petition, the petitioners have sought for following relief(s), which are reproduced hereinafter :

“(i) For quashing of the office order no.389 dated 08.09.2011 issued under the signature of respondent no.8 whereby and whereunder he has granted Grade Pay of Rs.2800/- (Annexure 7) by ignoring the guidelines of the department by which Grade pay was approved as Rs.4200/- to the Upper Division Clerks (Annexure-5).

(ii) To implement the letter issued under the signature of the respondent no.4 whereby and whereunder he has given guidelines to the respondent no.7 pursuant to his letter no.39 dated 10.02.2011 (Annexure-2) and approved grant of Grade Pay of Rs.4200/- and Rs.2400/- to Class III employees (87 Upper Division Clerks and 17 Drivers) under Modified Assured Career Progression Scheme, 2010, in short ‘MACP’) vide letter no.1263 dated 01.06.2011 (Annexure-5)



(iii) To spell out the reason behind denying the petitioners the same Grade Pay despite the approval made by the administrative department contained in Annexure-5.

(iv) To grant any other relief(s) in the particular facts and circumstances of the case.”

3. Mr. Suresh Kumar, learned counsel appearing on behalf of the petitioners submitted that the petitioners seek to file detail representation before the appropriate authority considering the fact that the Additional Director General, National Cadet Corps Directorate, Bihar and Jharkhand (Respondent No.6) had sought clarification from the Finance Department, Government of Bihar in respect of the petitioners, who claim themselves to be employees of the State Government holding different posts of Class III and Class IV and had been promoted to the post of Upper Division Clerk as a result of Financial Upgradation and some of them were also posted as the Driver. Learned counsel further submitted that in the counter affidavit, there is no denial. So far as clarification, which has been made by the Director of Student & Youth Welfare Department has not been denied by the Finance Department .

4. Heard the parties.

5. All the petitioners claims themselves to be Upper Division Clerk or Driver posted in different Battalion of the National Cadet Corps (hereinafter to be referred as the ‘NCC’).



Record reveals that in view of the Finance Department Resolution dated 14.07.2010 contained in Memo No.7566 (of which Paragraph no.29), vide letter no.1263 dated 01.06.2011 (Annexure 5), the Department of Art, Culture and Youth Affairs, Government of Bihar has informed that the Upper Division Clerk pay scale has been sanctioned in Grade Pay of Rs.4200/- and Rs.2400/- under MACP (for Class III and Class IV employees). The District Accounts Officer while fixing pay and grant of MACP to the employees has rejected the pay scale claimed by the petitioners.

6. It has been clarified in the counter affidavit filed on behalf of respondent nos. 5 to 8 that the petitioners claim to have been deputed by the State Government on different dates. The District Accounts Officer has confirmed that the pay fixation and Financial Upgradation as a result of MACP should have been in Grade Pay of Rs.2400-2800/-.

7. The petitioners are aggrieved by the said action of the respondent nos. 5 to 8. Insofar as Department of Art, Culture and Youth Affairs, Government of Bihar has admitted Grade Pay of Rs.4200/- and Rs.2400/- to Class III and Class IV Grade Employees respectively.

8. Considering the aforesaid submissions made on behalf of the petitioners and the admitted fact that a clarification has



already been made by the Director, Student & Youth Welfare Department, vide Memo No.1263 dated 01.06.2011, I find it proper that the Finance Department and the Additional Chief Secretary of Art, Culture & Youth Affairs Department may consider the clarification made by the Director, Student & Youth Welfare Department contained in letter no.01.06.2011 forthwith so that the petitioners can not be denied the Grade Pay of Rs.4200 and 2400 respectively payable and applicable to Class III and Class IV employees of the State Government as the petitioners claim themselves to be the employees of the State Government and thereafter they have been deputed to the Directorate of the National Cadet Corps, Bihar and Jharkhand. The representation of the petitioners along with the specific clarification, as indicated in this order must be submitted before the Directorate, Students & Youth Welfare Department, as well as, to the Director General, National Cadet Corps Directorate, New Delhi (respondent no.5) and the Additional Director General, National Cadet Corps Directorate, Bihar and Jharkhand, Patna (respondent no.6) within a period of six weeks.

9. The petitioners, if so advised, may file individual representation considering the fact that the detail facts relating to their services have not been pleaded in the writ petition and now



the same has been brought on record by the Respondent nos. 3 and 4.

10. The representation of the petitioners is directed to be disposed of considering the case of the petitioners on merits by passing a reasoned order in accordance with law preferably within a period of six months.

11. With the above observation/direction, the present writ petition stands disposed of.

(Purnendu Singh, J)

chn/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.05.2024
Transmission Date	NA

