

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11096 of 2024

=====

Ravindra Kumar Choudhari S/o Rewati Raman Choudhari, At present resident of Flat No. 405, Saraswati Niwas, Road No. 12, Rajendra Nagar, P.S.-Kadamkuan, District-Patna-800016. Permanent R/o Indu Sadan, Thakur lane, Adampur, Jagdishpur, Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary, Home Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Home, Government of Bihar, New Secretariat, Patna.
4. The Principal Secretary, Finance, Government of Bihar, Patna.
5. The I.G. Prison and Reform Services, Bihar, Patna.
6. Joint Secretary cum Director, Administration, Home (Jail), Government of Bihar, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Samrendra, Advocate
For the Respondent/s : Md. Irshad A.C. to S.C. 1

=====

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 29-07-2024 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed with the
following reliefs:-

(i) For setting aside the order contained in Memo No.
3527 dated 06.05.2024 passed by the Respondent No. 2
whereby the grant of replacement scale of Rs. 8000-13500/- to
the petitioner with effect from 01.01.1996 has been rejected.

(ii) For a declaration that the petitioner is similarly



situated to that 16 writ petitioners of CWJC No. 22597 of 2012 and is entitled to the same reliefs which were given to the 16 writ petitioners pursuant to the order of this Hon'ble Court dated 27.06.2014 and affirmed by the order of Division Bench of this Hon'ble Court dated 09.02.2018 passed in L.P.A. No. 04 of 2015 and the order of the Hon'ble Supreme Court dated 10.12.2018 passed in S.L.P (Civil) dairy No(s) 40242 of 2018.

(iii) For a declaration that the petitioner was also appointed and joined the post of the District Jail Superintendent in Bihar prior to the cut off date 01.01.1996 and, as such, he is also legally entitled to a replacement scale of Rs. 8000-13500/- from 01.01.1996 and also an interest @ 8% per annum on arrears of salary with effect from 01.01.1996.

(iv) For commanding the Respondents grant replacement scale of Rs. 8000-13500/- to the petitioner with effect from 01.01.1996 in terms of the recommendation of the 5th Pay Revision Committee, Fitment Committee and the Fitment Appellate Committee which has been accepted by the resolution dated 12.01.2004 of finance department Govt. of Bihar.

(v) For any other relief or reliefs to which the petitioner may found entitled to in the facts and circumstances



of the case.

3. Counsel for the petitioner submits that from the impugned order, which is contained in Memo No. 3527 dated 06.05.2024, petitioner's claim had been rejected only on the ground that he was not the party to the said CWJC No. 22597 of 2012. Counsel submits that at the time of taking this decision the concerned respondent No. 2 had not taken into consideration the law of the land, namely, Bihar State Litigation policy, 2011, and due to none consideration of law of the land the said decision is bad in law.

4. Counsel for the State submits that time may be granted to file the Counter-affidavit in this matter.

5. Upon hearing the parties, this Court is of the view that a pure legal question is involved in the present case that is whether respondent No. 2 is bound to consider the law, which has been enacted by the Government in the form of the Bihar State Litigation Policy, 2011, at the time of passing of order or not?

6. Bihar State Litigation Policy, 2011, in which Section 4C states as follows:

“4.C. A good number of cases are from the category of similar cases. Each Government Department will aim to consider and settle



the claim of the representationist/applicant employee/citizen, if the claim is found covered by any decision of the Court. Many service matters of this nature, can be disposed of at the level of the Department itself without compelling the litigant to come to the Court. In this manner, the Government Departments would be acting as efficient litigants.”

7. This policy is crystal clear and this Court is of the firm view that at the time of deciding the case of the petitioner the respondent no. 2 cannot ignore the said policy and, this order has been passed without considering the said policy. Hence, this Court hereby set aside the order contained in Memo No.3527 dated 06.05.2024 and hereby directs respondent No. 2 to decide the claim of the petitioner afresh considering the said litigation policy 2011 within 90 days from the date of receipt/production of a copy of this order. Counsel for petitioner is free to raise the relevant judgments which is important for the case.

(Dr. Anshuman, J.)

Mkr./Aman/-

U			
---	--	--	--

