

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18838 of 2018

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1. Vivek Prakash, Son of Sri Om Prakash Singh, Resident of B/8, Indirapuri Colony, P.S.- Shashtri Nagar, District- Patna.
 2. Deepak Kumar Mishra, Son of Late Lalan Mishra, Resident of Bank Colony, Gola Road, P.S.- Rupaspur, District- Patna.
 3. Ashok Kumar, Son of Shiv Kumar Prasad, Resident of B-90, People's Cooperative Colony, P.S.- Kankarbagh, District- Patna.
 4. Rakesh Kumar, Son of Late Maheshwar Prasad Singh, Resident of Village-Gheghtha, P.O.- Govindchak, P.S.- Sonpur, District- Saran.
 5. Binay Kumar Mehta, Son of Sri Girija Shankar Mehta, Resident of Mahavir Lane, Mahendru, P.S.- Pirbahore, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
4. The Director-in-Chief Administration, Health Services, Govt. of Bihar, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 1225 of 2018

1. Suman Kumar, son of Shri Sidheshwar Prasad, Resident of D- 44, Ashoka Tower, Machhali Gali, Raza Bazar, P.S. Shastri Nagar, Town and District- Patna.
2. Prabhat Kumar Sinha, son of Shri Raghunath Prasad Sinha, Resident of House No. 67, Road No. 14, Shrikrishna Nagar, P.S. Buddha Colony, Town and District- Patna.
3. Maya Shankar Prasad, son of Late Jai Mangal Prasad, Resident of Mohalla-Bahadurpur Housing Colony, P.S.- AgamKuan, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Commissioner and Secretary, Health, Medical Education and Family Welfare Department, New Secretariat, Vikas Bhawan, Patna
2. The Finance Commissioner and Secretary, Finance Department, Main Secretariat, Patna.

... .. Respondent/s



Appearance :

(In Civil Writ Jurisdiction Case No. 18838 of 2018)

For the Petitioner/s : Mr. Bindyachal Singh, Sr. Adv.
Mr. Prashant Sinha, Adv.

For the Respondent/s : Mr. S.D.Yadav (AAG-9)
Mr. Anil Kumar Verma, (AC to AAG-9)

(In Civil Writ Jurisdiction Case No. 1225 of 2018)

For the Petitioner/s : Mr. Rajendra Narain, Sr. Adv.
Mr. Sumeet Kumar Singh, Adv.
Ms. Deepali Singh, Adv.

For the Respondent/s : Mr. Binod Kumar Sinha, Adv.
Mr. Sudama Kumar (AC to SC-12)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 05-02-2024 Heard learned senior counsel for the petitioners of both CWJC Nos. 18838/2018 and 1225/2018 respectively. Heard learned counsel for the State also.

2. Both the writ petitions have been filed by the petitioners directing the respondent authorities of the Finance Department, Government of Bihar to grant grade pay Level-7 to the Health Educators of basic grade under the 7th Pay Revision implemented by the State Government on the ground that the post of Health Educators is a graduate level supervisory post and the Health Department has also recommended that they are entitled for pay Level-7 under the 7th Pay Revision w.e.f. 01.01.2016. For holding that this Hon'ble Court has pleased to pass order in Civil Writ Jurisdiction Case No. 7024/2007 that the Health Educators should be treated similar to other supervisory level posts upon which the appointments were made



on the basis of same advertisement, same qualification, same selection process and same merit list.

3. Learned senior counsel for the petitioners submits that the similarly situated persons have moved before this Hon'ble Court with the same relief for whom, this Court *vide* order dated 19.02.2020 passed in Civil Writ Jurisdiction Case No. 1625/2020 have decided that:-

“the issue therefore, regarding petitioners’ entitlement to claim parity with supervisory grade employee in their department has not attained finality as decision is yet to be taken by the Principal Secretary, Finance Department. The writ petition therefore need be kept pending and the same is accordingly disposed off. However, the Court would direct the Principal Secretary, Finance Department to take a final decision on the claim of the petitioners pursuant to the communication dated 23.01.2020 issued by the Principal Secretary, Health Department, expeditiously without undue delay and preferably within three months from the date of receipt/production of a copy of this order.”

4. In compliance of the said order, the Principal Secretary, Finance Department has taken decision and rejected the grievance of the petitioners of Civil Writ Jurisdiction Case



No. 1625 of 2020 and decided that since the post of Health Educators is dying cadre and on which there is no appointment has to be taken place in future and therefore, such benefit could not be granted.

5. Learned senior counsel for the petitioners of second case submits that there is a sharp discrimination made by them as a rejoinder attached in the Civil Writ Jurisdiction Case No. 1225 of 2018 and Annexure-P/23 of the second writ relevant page no.38 on which there is a comment made on the Irrigation Revenue Establishment in the fourth column that:-

“it is a dying establishment and posts shall be abolished as they fall vacant. Replacement pay structure shall be available to all the employees still working against these posts. Post-wise recommendations are not being made.”

Counsel further submits that respondent Principal Secretary, Finance Department is discriminating, as for one type of employee, he is providing benefits, but for petitioners, he is not considering the benefits. Considering this aspect of the matter, this case is remitted back to the Principal Secretary that Principal Secretary shall pass a reasoned and speaking order for both set of petitioners and shall be taken into consideration that under what circumstances he has two different stands



for a dying establishment as mentioned above and petitioners who are dying cadre.

6. The petitioners of both the cases are directed to file representation afresh and respondent Principal Secretary is directed to decide the same, considering the points of discrimination which has been raised by the petitioner in the writ petition. He shall pass a reasoned and speaking order within 90 days thereafter. It is made clear that order which is annexed as Annexure-11 of the first writ petition contained in Memo No. 4226 dated 27.04.2022 shall not create any hurdle in passing order a fresh.

7. Any earlier decision passed by the respondent Principal Secretary, Finance Department shall not create any hurdle in deciding the case of the petitioners.

8. With the aforesaid observations and directions, this writ petition is hereby disposed off.

(Dr. Anshuman, J.)

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