

Civil Writ Jurisdiction Case No.9259 of 2018

- Petitioner/s

1. The State Of Bihar and Ors
2. The Principal Secretary, Water Resource Department, Govt. of Bihar, Patna.
3. The Chief Engineer, Water Flood Control and Water Drainage Water Resource Department, Birpur, Supaul
4. The Superintending Engineer, Kosi Barage Circle, Water Resource Department, Birpur, Supaul.
5. The Superintending Engineer, Eastern Kosi Embankment Circle, Water Resource Department, Saharsa.
6. The Executive Engineer, Eastern Embankment Division, Water Resource Department, Birpur, Supaul.
7. The Executive Engineer, Design Division, Water Resource Department, Birpur, Supaul.

... .. Respondent/s

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Advocate
For the Respondent/s : Mr. Sudhir Kumar Upadhyay, AC to GP- 7

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2. Learned Counsel for the petitioners submits that the name of the petitioner No. 1 has been mentioned in the



petition, but in the cause title page, the name of petitioner No. 1 is incorrect.

3. The Registry is directed to make the necessary amendments and correct the name of petitioner No. 1 to 'Md. Raza Ahmad' in course of the day.

4. The present writ petition has been filed for the following reliefs:-

(i) For issuance of appropriate writ/writs, order/orders in the nature of certiorari for quashing order contained in memo no. 2351 dated 24.08.2017 issued by respondent no.3, so far it relates to the petitioners, whereby the benefit of second Modified ACP granted to the petitioners under Modified Assured Career Promotion scheme has been cancelled and direction has been given to recover the amount of excess payment, in violation of principal of natural justice without giving any opportunity of hearing,

(ii) For quashing consequential orders issued by respondent no. 6 and 7, whereby and where under direction has been issued to recover the excess amount from the salary of the petitioners,

(iii) For issuance of writ/writs of mandamus commanding the respondent



authorities to grant the benefit of first Assured Career Promotion on completion of twelve years of service under ACP scheme, 2003 and second MACP on completion of twenty years of service under MACP scheme and the consequential monetary benefits,

(iv) For any other writ/writs, order/orders which the petitioner may found to be entitled in the facts and circumstances of the case.

5. Learned Counsel for the petitioners submits that by virtue of the present writ petition, the order contained in Memo No. 2351, dated 24.08.2017, has been challenged. Counsel further submits that, by the said letter, a total of 10 persons were aggrieved. Out of these 10 persons, two individuals moved before this Hon'ble Court in CWJC No. 2012 of 2018 and in CWJC No. 11595 of 2018 which were allowed, and the order contained in Memo No. 2351, dated 24.08.2017, was quashed so far as the representatives of the petitioners are concerned. Counsel submits that the order dated 19.09.2022 passed in CWJC No. 11595 of 2018 was tested before the Hon'ble Division Bench of this Court in Letters Patent Appeal No. 721 of 2022, and the L.P.A. Bench also rejected the appeal of the State in light of the Hon'ble Full Bench decision in *Kamlanand Thakur vs. State of Bihar*, along with other analogous cases



decided in CWJC No. 18727 of 2017. Counsel further submits that the petitioners' case is squarely covered by the said decision. Counsel further submits that the present writ petition be disposed off with the same observation and the benefits given in the case of *Kamlanand Thakur* (Supra) be also granted to the present petitioners.

6. Learned Counsel for the State submits that presently the order which is challenged by this writ petition is barrier for the State and the authority may not consider the case of the petitioners until and unless the said order shall not be ended for the present petitioners.

7. In light of the submissions made above and upon perusal of the impugned Memo No. 2351, dated 24.08.2017, it is found that there are 10 persons aggrieved by the said letter, among whom the petitioners are listed at serial Nos. 2, 4, and 7.

8. This Court hereby set aside the said letter contained in Memo No. 2351, dated 24.08.2017, and directs the Chief Engineer, Water Flood Control and Water Drainage Water Resource Department, Birpur, Supaul, (Respondent No. 3), to consider the petitioners' case in light of Clause 4.C of the Bihar State Litigation Policy, 2011. The petitioners are entitled to, and must be paid, the dues and admissible benefits, along with a



calculation chart showing how the amount has been arrived,
within a period of eight weeks from the date of filing the
representation, along with a copy of this order passed by this
Hon’ble Court.

(Dr. Anshuman, J)

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