

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9962 of 2023

1. Shyam Kishore S/o Niwas Sharma Resident of Village Horilganj, P.O. and P.S. and District- Jehanabad, Pin Code- 804408.
2. Lav Kumar @ Law Kumar, S/o- Kashi Nath Ram R/o Village- Baghra Tola, P.O.- Kurmari, P.S.- Sikrahta, Dist.- Bhojpur, Pin Code- 802207.
3. Manish Kumar Yadav, Son of Late Surendra Yadav Resident of Vill.- Puraina, P.O.- Mandrauli, P.S.- M.H. Nagar, Disst.- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Minor Water Resources Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Chief Engineer Muzaffarpur Zone, Minor Water Resources Department, Govt. of Bihar, Patna.
4. The Chief Engineer Patna Zone, Minor Water Resources Department, Govt. of Bihar, Patna.
5. The Chief Engineer, Minor Water Resources Department, Bhagalpur Zone, Bhagalpur.
6. The Superintending Engineer, Minor Water Resources Department, Govt. of Bihar, Patna- Circle.
7. The Superintending Engineer, Minor Water Resources Department, Govt. of Bihar, Chhapra- Circle.
8. The Superintending Engineer, Minor Water Resources Department, Govt. of Bihar, Circle- Munger.
9. The Executive Engineer, Minor Water Resources Department, Govt. of Bihar, Irrigation Division- Gopalganj.
10. The Executive Engineer, Minor Water Resources Department, Govt. of Bihar, Irrigation Division- Arwal.
11. The Executive Engineer, Minor Water Resources Department, Govt. of Bihar, Irrigation Division- Lakhisarai.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 10198 of 2023

1. Ravi Ranjan Kumar S/o Late Awadhesh Prasad Singh, R/o Vill-Rampur, P.O.-Rampur, P.S.-Barun, Disst-Aurangabad.
2. Panna Lal, S/o Late Ram Raj Singh, R/o Vill-Hasanpur English, P.O.-Jhumar Dihra, P.S.-Barun, Disst-Aurangabad.

... .. Petitioner/s

Versus



1. The State of Bihar through the Principal Secretary, Minor Water Resources Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Chief Engineer Muzaffarpur Zone, Minor Water Resources Department, Govt. of Bihar, Patna.
4. The Chief Engineer Purnea Zone, Minor Water Resources Department, Govt. of Bihar, Patna.
5. The Superintending Engineer, Minor Water Resources Department, Purnea Circle.
6. The Superintending Engineer, Minor Water Resources Department, Muzaffarpur Circle.
7. The Executive Engineer, Minor Water Resources Department, Irrigation Division-Purnea.
8. The Executive Engineer, Minor Water Resources Department, Irrigation Division-Sitamarhi.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 10924 of 2023

Rajesh Kumar S/o Late Ram Chandra Kamat, R/o Vill-Bathnaha, P.O.- Belha, P.S.-Phulparas, Disst-Madhubani, Presently Residing at Ward No. 16, Kali Bari Bompas Town, Deoghar, Jharkhand-814112.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Minor Water Resources Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Minor Water Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Chief Engineer, Minor Water Resources Department, Govt. of Bihar, Patna.
5. The Superintending Engineer, Minor Irrigation Circle, Patna.
6. The Executive Engineer, Minor Irrigation Division, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 9962 of 2023)

For the Petitioner/s : Mr. Siyaram Pandey, Advocate

For the Respondent/s : Mr. Anirban Kundu (SC-24)

(In Civil Writ Jurisdiction Case No. 10198 of 2023)

For the Petitioner/s : Mr. Siyaram Pandey, Advocate

For the Respondent/s : Mr. Sita Ram Yadav (GP-16)
Mr. Jitendra Kumar, AC to GP-16



(In Civil Writ Jurisdiction Case No. 10924 of 2023)

For the Petitioner/s : Mr. Siyaram Pandey, Advocate

For the Respondent/s : Mr. Anirban Kundu, (SC-24)

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 31-01-2025 The above-mentioned writ petitions involved the same question of fact and law and therefore, the writ petitions have been heard analogously and this Court proposes to dispose of the same by a common order.

2. In C.W.J.C. No.9962/2023, the petitioners are three in numbers. They were initially appointed as Lower Divisional Clerk on compassionate ground against the vacancy which occurred in the cadre of Junior Accounts Clerk. After their initial appointment vide appointment letter No.490 dated 07.07.2012 and other two dates the Executive Engineer, Minor Irrigation Department rectified their initial appointment by passing the order of posting as Junior Accounts Clerk.

3. It is pertinent to mention here that the pay scale of Lower Division Clerk was Rs.3050-4590/-. It is contended by all the petitioners in the above-mentioned three writ petitions that the petitioners were entitled to get pay scale of Rs.4000-6000/- and their pay scale ought to be fixed in the pay scale of Junior Accounts Clerk.

4. It is submitted by the learned Advocate for the petitioner that the similar issue came up for hearing before this



Court in CWJC No.9921 of 2017 and series of other connected matters and this Court allowed the said writ petition restoring the position of the petitioners to their respective post together with pay scale attached thereto. It was further directed that any recovery made from the petitioners ought to be refunded to them within three months from the date of receipt/production of a copy of the judgment.

5. Being aggrieved by the order passed in CWJC No.9921 of 2017 and other connected matters, the State-Respondents preferred L.P.A. No.1702 of 2017 and other 10 numbers of connected L.P.As. before the Division Bench of this Court. The said appeals were dismissed and the order of the Hon'ble Single Judge was affirmed. The respondents in turn moved to the Hon'ble Supreme Court in Special Leave Petitions being S.L.P. No.23778 of 2018 and other connected S.L.Ps., the number of which are mentioned in Annexure-17 of the writ petition. The S.L.Ps. being dismissed by the Hon'ble Supreme Court, the writ petitioners were granted financial benefit in the pay scale of Junior Accounts Clerk by the Finance Department, Government of Bihar. The said order dated 19.11.2018 is part of the writ petition being Annexure-17.

6. While by filing counter affidavit in CWJC



No.10198 of 2023 and CWJC No.10924 of 2023 the State-Respondents have admitted the claim of the petitioners. The contention made by the petitioner was contradicted by the respondents in their counter affidavit in CWJC No.9962 of 2023.

7. It is submitted on behalf of the respondents that the petitioners were initially appointed as Lower Division Clerk in the pay scale of Rs.3050-4590/- on compassionate ground. They accepted their appointments and joined the service in clerical cadre. Subsequently, they cannot claim that their appointment may be treated as in the cadre of Junior Accounts Clerk in violation of their initial appointment. It is also submitted on behalf of the respondents that the instant writ petitions may be taken up for adjudication after disposal of CWJC No.23831 of 2018.

8. I have closely perused the copy of the order passed in CWJC No.23831 of 2018 (Annexure-E series to the counter affidavit), the writ petitioners in the aforesaid writ petitions prayed for the following reliefs:-

(i) for a direction to the respondents to make payment of salary to the petitioner in the same pay scale of Rs.4000-6000/- which is being paid to the other



similarly appointed Lower Division Clerks who entered the service alongwith petitioners by the same common appointment letter dated 06.09.2001, initially in the pay scale of Rs.3050-4590/- but are being provided with salary in higher pay scale of Rs.4000-6000/-, in compliance of the direction contained in the judgment and order dated 11.03.2011 passed in CWJC No.15956 of 2006.

(ii) For a further direction to the respondents to make payment of arrear salary to the petitioners in the said pay scale of Rs.4000-6000/- and its corresponding higher pay scale and grade pay, w.e.f. the date, the other similarly appointed Lower Division Clerks are being paid in such pay scale in the light of the direction contained in the judgment and order passed in CWJC No.15956 of 2006 and further in the light of the judgment and order passed in LPA No.167 of 2016.

9. Indisputably, in CWJC No.23831 of 2018 the petitioner was appointed by the office of District Magistrate, Nawada alongwith others as Lower Division Clerk in the pay scale of Rs.3050-4590/- on compassionate basis being a dependent of a government servant who had died-in-harness. In



the instant case, the factual circumstance is a bit different. The petitioners were of-course appointed as Lower Division Clerks initially against the vacancies which occurred in the cadre of Junior Accounts Clerk. Subsequently, their appointment and posting was rectified by the concerned Authority.

10. Under such circumstances, the High Court reviewed the matter judicially. After judicial review under Article 226 of the Constitution of India, the High Court directed the State-Respondents to pay salary to the employees in the pay scale of Junior Accounts Clerk. The petitioners fall under the same category and therefore, they are entitled to get the relief as prayed for by them in the light of the previous judgment passed in CWJC No.9921 of 2017 and other connected matters and affirmed in LPA No.1702 of 2017 and connected matters as well as SLP No.23778 of 2018 and the connected matters.

11. For the reasons stated above, the above-mentioned three writ petitions are allowed on contest.

12. The respondents are directed to provide the benefit of Letter No.3111 dated 25.03.2015 issued by the Finance Department, Government of Bihar (Annexure-16 of the writ petition) and the order dated 21.08.2018 passed in CWJC No.9921 of 2017 (Binit Kumar and others Vs. The State of



Bihar & others) (Annexure-18 of the writ petition) in favour of the petitioners in respect of their pay scale at the rate of Rs.4000-6000/- till 31.12.2005 and thereafter, Pay Band-I + Grade Pay of Rs.2400/- w.e.f. 01.01.2006.

13. The petitioners are also entitled to get arrears salary, which shall be calculated by the concerned department in collaboration with the Finance Department and disbursed to the petitioners within 60 days from the date communication of the order.

(Bibek Chaudhuri, J)

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