

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.483 of 2022

In

Civil Writ Jurisdiction Case No.2690 of 2021

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1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
 2. The Additional Chief Secretary-cum-Principal Secretary, General Administration Department, Government of Bihar, Patna.
 3. The Additional Chief Secretary-cum-Principal Secretary, Finance Department, Government of Bihar Patna.
 4. The Additional Chief Secretary-cum-Principal Secretary, Department of Revenue and Land Reforms, Govt. of Bihar, Patna.
 5. The Director, Directorate of Land Records and Survey, Govt. of Bihar, Patna.
 6. The Assistant Director, Directorate of Land Records and Survey, Govt. of Bihar, Patna.

... .. Appellant/s

Versus

1. Pradeep Kumar, son of Sri Hridayanand Upadhyay, resident of Village and P.O.-Upadhyayapur, Ward No. 7, P.S.-Buxar Industrial Area, District-Buxar, Bihar-802118.
2. Gajendra Prasad Singh, Son of Sri Naurangi Singh, resident of Village-Lahladpur Saidabad, Bikram, Police Station-Rani Talab Kanpa, District-Patna.
3. Ram Saran Prasad, Son of Late Hari Prasad, Resident of Village-Roh, P.O. and P.S.-Roh, District-Nawada.
4. Birendar Kumar, son of Mukhlal Mahto, Resident of Village and P.O.-Sukhdeora, P.S.-Kauwakol, District-Nawada.
5. Krishna Prasad, Son of Sri Dhaneshwar Mahto, resident of Village-Karma, P.O. and P.S. Warsaliganj, District-Nawada.
6. Parmanand Bharti, Son of Ramdev Bharti, resident of Village-Baliamatia, P.O.-Deopura, District-Saran.
7. Chandan Kumar Giri, son of Shashi Bhushan Giri, resident of Village and P.O.-Budhra, P.S.-Athmalgola, District-Nalanda (Biharsharif)-803512.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. P.K. Shahi, AG
Mr. Saurabh Kumar, Advocate
For the Respondent/s : Mr. Kumar Kaushik, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT



(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 27-01-2025

Re : I.A. No. 1 of 2022

The learned Advocate for the appellants/applicants presses I.A. No. 1 of 2022 for condoning the delay of 118 days in preferring this appeal.

2. For the reasons stated in the application, the delay of 118 days in preferring this appeal is condoned.

3. I.A. No. 1 of 2022 stands allowed.

Re : L.P.A. No. 483 of 2022

4. We have heard Mr. P.K. Shahi, the learned Advocate General for the State and Mr. Kumar Kaushik, the learned Advocate for the respondents.

5. The State has questioned the correctness of the judgment dated 07.04.2022 passed by a learned Single of this Court in C.W.J.C. No. 2690 of 2021 whereby a direction has been issued to the State to pay to the respondents the minimum pay attached to the post of Amins, which posts they were holding on *ad hoc*/



contractual basis till their regularisation or till their services are continued in the concerned department.

6. The major ground for contest by the State is that it would cause huge financial strain on the State purse and that the services of the respondents have been terminated. The rules for appointment have been brought about and regular appointments were made, though not against the posts on which the respondents had been working.

7. Additionally, it was also argued that such order could have been passed only if it were decided that the respondents were performing the same nature of work as that of a regular employee and that such remuneration in the case of the respondents would be dependent on contractual terms to which the respondents had agreed to.

8. The respondents/petitioners had joined the post of Amin on *ad hoc* basis under a contract. It would not be necessary to go into the details of the year of employment of each of the respondents. The fact, which is necessary for



the disposal of this appeal, is that the contractual agreement between the respondents and the employer was for a remuneration of Rs. 10,000/-. This remuneration was always revised and in the year 2012, it was raised to 13,000/-. Later, in the year 2015, the remuneration was raised to Rs. 18,000/-. The last of the raise in the remuneration was in the year 2016 to Rs. 22,000/-.

9. The contention of the State, therefore, is that before relying upon the judgment of the Supreme Court in ***State of Punjab & Ors. vs. Jagjit Singh & Ors.:*** ***(2017)1 SCC 148***, the learned Single Judge had to satisfy himself that the principle of equal pay for equal work applied to the case of the respondents on the settled parameters for the applicability of the same.

10. Additionally, the contention raised on behalf of the State is that when under a contractual stipulation, respondents were ready to work for a particular amount as remuneration, which was increased from time to time, taking resort to the principle of equal pay for equal work,



the learned Single Judge only looked at the interest of the respondents and did not consider the commitment of the State.

11. In response to the aforementioned argument, the learned Advocate appearing for the respondents/writ petitioners submitted that no new rule was enunciated by the learned Single Judge. In fact, various decisions of the Supreme Court have espoused that the principle of equal pay for equal work is applicable to temporary employees also, who perform the same duties and responsibilities as regular employees. It was also held in those decisions that it would be fallacious to determine artificial parameters to deny to the respondents their fruits of labour, moreso, when the employer is a welfare State. There is no denying the fact that an act of paying less as compared to other similarly situated would result in exploitation, bordering on enslavement emerging out of the domineering position of the State.

12. Based on these principles, in **Jagjit Singh**



(supra) it was held that all persons doing similar work, even though their engagement is temporary or *ad hoc*, would be entitled to the minimum pay-scale given to persons rendering similar nature of work.

13. However, this principle is applicable with certain caveats. There shall be some parameters for applicability of the Rule. After making an extended survey of the case law on the subject, the Supreme Court in **Jagjit Singh** (supra) summarised the parameters for applicability of the equal pay for equal work principle, viz., (i) that the claimant discharges equal work of equal value and sensitivity as the reference post; (ii) mere fact that the subject 'post' occupied by a claimant is in a different department *vis-a-vis* the reference post would not be consequential; (iii) the principle cannot be automatically invoked on the ground of the reference post and the claimant serving on the post of same nomenclature, (iv) differentiation of pay-scales for posts with difference in degree of responsibility, reliability and confidentiality,



falling within the realm of valid classification justifying pay differentiation and so on and so forth.

14. It is not the case of the State that the *ad hoc* Amins/respondents were performing work of any lesser sensitivity or of lesser value than a regular Amin, had he been employed with the State on such post.

15. In such circumstance, we do not find any fault with the order of the learned Single Judge in recognising the entitlement of the respondents of the basic minimum pay attached to the post of Amins.

16. The basic minimum pay includes the basis pay plus the grade pay plus the Dearness Allowance and perhaps washing allowance as well, if applicable.

17. However, we find the contention of the State to be somewhat convincing that there are many *ad hoc* Amins before the Rules in that regard was brought in and the process of selection/recruitment was started.

18. Severe burden on the State purse is a ground which also cannot be ignored lightly.



19. However, seeing it in the context of the entitlement of the persons who have worked on such posts, the only relief which could be granted to the State would be in terms of the judgment delivered in ***Union of India and another vs. Tarsem Singh : (2008)8 SCC 648*** wherein it was recognised that normally in service matter claims, which includes pay parity, the Courts are not readily willing to allow such claim, if it does not pass the muster of limitation or the claim as put forth with delay and latches. However, an exception to this principle was carved out for continuing wrongs where even the delayed claims could be entertained, except perhaps where entertaining such claims would be against the interest of their parity as in the case of seniority or promotion. In matters like arrears for the past period, principles relating to recurring/successive wrongs apply and in such cases, the payment should be restricted to three years prior to the filing of the writ petition.

20. Good reasons have been assigned in the judgment, referred to above, for fixing such time period



which balances out the individual’s interest and the State commitment as also the State purse.

21. Taking this into account, we modify the impugned judgment passed by the learned Single Judge to the extent that the State would be under an obligation to pay to the respondents the arrears accruing out of the difference between the actual pay and the minimum pay-scale from 25.01.2018 till the date when their services were terminated. The calculation be made not beyond a period of three months, to be counted from today, and the benefits be given to the respondents thereafter.

22. The appeal stands disposed off accordingly.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Rajesh/Saurabh

AFR/NAFR	NAFR
CAV DATE	NA
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