

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9830 of 2018

- 1.1. Smt. Lalita Devi Wife of Late Tarkeshwar Prasad, Resident of Village - Rohar, near D.A.V. Public School, Rohar, Mathurapur, P.S. - Shivnarainpur, District- Bhagalpur.
- 2.1. Smt. Anita Devi Wife of Late Mantu Mandal Resident of Village - Jaindh, P.O. - Ghogha, P.S. - Ghoha, District- Bhagalpur, presently at Adampur PWD Campus, Adampur, Dist - Bhagalpur.
3. Subhash Chandra Jha, Son of Late Bhuneshwar Jha, resident of Village- Khawa, P.O.- Kiranpur Via Suryagarha, P.S.- Suryagarha, District- Lakhisarai.
4. Ravikant Mandal, Son of Late Sitaram Mandal, resident of Purani Dairy Road, P.O. and P.S.- Barari, District- Bhagalpur.
5. Shyam Kisku, Son of Late Jitan Kisku, resident of Village- Pipradih, P.O.- Basmatta, P.S.- Belhar, District- Banka.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
3. The Engineer-in- Chief, Road Construction Department, Govt. of Bihar, Patna.
4. The Chief Engineer South Bihar Wing, Road Construction Department, Govt. of Bihar, Patna.
5. The Superintending Engineer, East Bihar Circle, Road Construction Department, Bhagalpur.
6. The Executive Engineer, Road Division, Road Construction Department, Bhagalpur.
7. The Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Prashant Sinha, Advocate Mr. Aniket Rai, Advocate Mr. Rishi Raj Raman, Advocate
For the State	:	Mr. Subodh Kumar (AC to SC-26)
For the AG	:	Mr. Ram Kinkar Choubey, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 21-03-2025 Heard Learned Counsel for the petitioners, Learned
Counsel for the State and Learned Counsel for Accountant



General, Bihar, Patna.

2. The present writ petition has been filed for the following relief/s:-

I. For quashing of the Office Order No.18(A) dated 06.06.2017 as contained in Memo No.516 dated 06.06.2017 (annexed as Annexure-4) issued by the Superintending Engineer, Road Construction Department, East Bihar Circle, Bhagalpur whereby the benefit of 3rd MACP granted to the petitioners in the grade pay of Rs.4600/- has been withdrawn going against Example-kha of Appendix-1 of the Modified Assured Career Progression Scheme, 2010.

II. For quashing of the Office Order No.40 dated 31.10.2017 (annexed as Annexure-5) and Office Order No.04/Bhagalpur dated 08.02.2018 (annexed as Annexure-12) by which order for recovery has been made against petitioner nos.1 and 5.

III. For directing the respondent authorities to restore the benefit of 3rd MACP to the petitioners in the grade pay of Rs.4600/- in PB-2 w.e.f. their respective dates and pay all the consequential benefits on account of such restoration.

IV. For directing the respondent authorities to fix the pension of petitioner nos.1 and 5 initially and subsequently for



all petitioners as all were retired.

3. Learned Counsel for the petitioners submits that during pendency of the writ petition, petitioner nos.1 and 2 died and duly substitution of those petitioners 1 and 2 has been made. Counsel relied on a judgment dated 11.09.2018 in case of Arbind Kumar Sinha Vs. The State of Bihar & Ors. passed in Civil Writ Jurisdiction Case No.18919 of 2017. Counsel submits that case of the present petitioners has squarely covered from the case of Arbind Kumar Sinha who was the employee of Road Construction Department as like that of the petitioners and the petitioner has also challenged the same Memo No.516 dated 06.06.2017 which the present petitioners have challenged. As in the said memo, in total there were 17 persons and out of those 17 persons, one person is Arbind Kumar Sinha for which, order has been passed on 11.09.2018 in CWJC No.18919 of 2017, and for five persons, the present writ petition has been filed.

4. Learned Counsel for the State submits that petitioners are not entitled for any benefit due to the reason of existence of a letter No.10936 dated 27.11.2014 issued by the Finance Department, Government of Bihar, whereas, Counsel for the petitioners submits that the order has been passed by this Hon'ble Court considering every aspect of the matter and



similarly situated person i.e. Arbind Kumar Sinha has been granted relief and petitioners case are also covered by the said decision dated 11.09.2018 passed in CWJC No.18919 of 2017.

5. In the light of the submissions made, this Court hereby keeping in mind the provision of Bihar State Litigation Policy, 2011 (Clause 4.C) which states as follows:-

“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.”

6. Since, the litigation policy has been framed by the Government itself with a view to close a litigation, therefore, this Court hereby directing the petitioners to file representation before the Superintending Engineer, East Bihar Circle, Road Construction Department, Bhagalpur (Respondent no.5) containing the order as well as the litigation policy. Upon filing the representation along with the said order, Respondent no.5



shall pass a reasoned and speaking order in accordance with law as decided in case of similarly situated person i.e. Arbind Kumar Sinha in CWJC No.18919 of 2017 in the light of Clause 4.C of the Bihar State Litigation Policy, 2011 within 90 days from the date of production of this order as well as representation filed by the petitioners before him.

7. It is made clear that in the speaking order, the respondent shall provide a chart showing the admitted payable amount to the petitioners.

8. Accordingly, with the aforesaid direction, this writ petition is hereby disposed off.

(Dr. Anshuman, J)

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