

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.456 of 2025

1. Sanjay Kumar, Son of Late Narayan Yadav, resident of Bhawanipur (West), Ward No. 03, Ajgaiba, Saharsa, P.S.- Sourbazar, District Saharsa, Bihar.
2. Abhishek Bharati, Son of Niranjana Prasad Yadav, Resident of Bhartiya Nagar Bataraha, Ward No. 26, P.S.- Saharsa, District Saharsa, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Additional Chief Secretary, Finance Department, Government of Bihar, Patna.
4. The Director, Secondary Education, Bihar, Patna.
5. The Regional Deputy Director, Koshi Division, Education Department, Saharsa.
6. The District Education Officer, Saharsa.
7. The Programme Officer (Establishment), Saharsa.
8. The Accountant General Bihar, Birchand Patel Path, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ansh Prasad, Advocate
		Ms. Aishwarya Shankar, Advocate
For the Respondent/s	:	Mr. Standing Counsel (15)

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 27-01-2025 Heard the parties.

2. The petitioners, who are appointed on compassionate ground, have invoked the jurisdiction of this Court seeking a direction upon the concerned respondents to grant the petitioners the benefit of Old Pension Scheme instead of New Pension Scheme.

3. Learned Advocate for the petitioners contended that



the claim of the petitioner no. 1 was duly considered by the District Compassionate Appointment Committee in its meeting dated 15.09.2003 and finally vide order dated 19.09.2003 contained in Memo No. 283-1, recommendation was made to the District Compassionate Appointment Committee, Saharsa to appoint the petitioner no.1. Similarly, the claim of the petitioner no. 2 was considered by the District Compassionate Appointment Committee in its meeting held on 17.06.2004 and recommendation was made to the District Education Officer, Saharsa to appoint the petitioner no. 2.

4. Despite the recommendation made way back in the year 2004 as stated hereinabove, the appointment of the petitioner no. 1 was made as late as on 07.12.2006 vide order bearing no. 1945 issued by the District Education Officer, Saharsa. Likewise, the petitioner no. 2 was appointed as late as on 26.09.2006 vide order bearing no. 1556 by the order of the District Education Officer, Saharsa.

5. Learned Advocate for the petitioners referring to the aforementioned facts contended that admittedly the claim of the petitioner was duly considered by the District Compassionate Appointment Committee and recommendation for appointment was made much prior to coming into force of New Pension



Scheme, which came in force with effect from 01.09.2005. The Government of Bihar in the Department of Finance considering the grievance of the employees, whose appointment has been delayed on account of some administrative reason or on the latches of the department, has come out with a resolution as contained in Memo No. 1206 dated 28.11.2023, providing option to such employees for old pension scheme, if they desire.

6. Learned Advocate for the petitioners referring thereto contended that, nonetheless the cases of the petitioners are duly covered in terms of the conditions stipulated in the afore-noted resolution, when the petitioners approached before the concerned authorities by filing an appropriate representation, no action has been taken, compelling them to approach before this Court.

7. It is the specific contention of the petitioners that some of the persons, whose names were also recommended alongwith the petitioners, they have been extended the benefit of Old Pension Scheme, but discrimination has been caused to the petitioners, who have not been allowed the benefit of Old Pension Scheme.

8. Reliance has also be placed on a decision of the learned co-ordinate Bench of this Court in the case of *Dilip*



Kumar vs. The State of Bihar & Ors., CWJC No. 13092 of 2024, disposed off on 09.09.2024, where in identical situation when the petitioner has not been accorded the benefit of Old Pension Scheme, despite the fact that recommendation has been made by the District Compassionate Appointment Committee prior to coming into force of the New Pension Scheme, the Court has directed the respondents to extend the benefit of Old Pension Scheme. Similar reliance has also been placed on a decision of this Court in the case of ***Mahendra Mahto vs. The State of Bihar & Ors.***, in ***C.W.J.C. No. 13344 of 2024***, disposed off on 10.09.2024.

9. *Per contra* learned Advocate for the State contended that since the petitioners has already approached before the competent authority for redressal of their grievance by filing representations, vide Annexure P/7 and P/8, the same are required to be considered and disposed off by the competent authorities.

10. Considering the submissions advanced on behalf of the learned Advocate for the respective parties and taking note of the facts that the petitioners have already agitated their grievance by preferring representations this Court deems it appropriate to dispose off the writ petition with a direction to the



respondent no. 4 to consider the representations of the petitioners as contained in Annexure P/7 and P/8 in the light of the resolution of the Finance Department, as well as, the orders passed by this Court in the case of *Dilip Kumar* and *Mahendra Mahto (supra)*, preferably within a period of eight weeks from the date of receipt/production of a copy of this order.

11. The writ petition stands disposed off with the aforesaid direction and observation.

(Harish Kumar, J)

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