

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14709 of 2022

1. Shrinath Kumar Son of Late Vijay Kumar Singh, Resident of Vill-Vindagohia, P.O.- Bandhu Chhapra, P.S.- Barhara, Disst- - Bhojpur (Aara) Presently residing at N.H. Colony, Biharsharif, P.S.- Biharsharif, Disst-Nalanda.
2. Rajesh Kunal Son of Late Birendra Kumar, Resident of Vill- Chhoti Malawan, P.O.- Bari Malawan, P.S.- Sarmera, Disst- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Principal Secretary, Minor Water Resources Department, Govt. of Bihar, Patna.
5. The Engineer-in-Chief-cum-Special Secretary, Road Construction Department, Govt. of Bihar, Patna.
6. The Engineer-in-Chief-cum-Special Secretary, Minor Water Resources Department, Govt. of Bihar, Patna.
7. The Chief Engineer, (Planning and Monitoring and Ground Water), Minor Water Resources Department, Govt. of Bihar, Patna.
8. The Chief Engineer, Road Construction Department, Govt. of Bihar, Patna.
9. The Chief Engineer, Minor Water Resources Department, Govt. of Bihar, Patna.
10. The Superintending Engineer, NH Works Circle Patna.
11. The Superintending Engineer, Minor Irrigation Circle, Chapra at Saran.
12. The Executive Engineer, NH Works Division Biharsharif.
13. The Executive Engineer, Minor Irrigation Division, Nalanda.
14. The Chief Engineer, Minor Water Resources Department, Muzaffarpur.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 12703 of 2019

Sujeet Kumar Pandey Son of Late Hare Krishna Pandey R/o Village and P.O.-
Aruwan, P.S.-Bhagwanpur Hat, Dist-Siwan

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Works Department, Government of Bihar, Patna
2. The Secretary Rural Works Department, Government of Bihar, Patna



3. The Principal Secretary Finance Department, Government of Bihar, Patna
 4. The Additional Secretary Rural Works Department, Government of Bihar, Patna
 5. The Engineer-in-Chief-cum-Additional Commissioner cum-Special Secretary Rural Works Department, Government of Bihar, Patna
 6. The Chief Engineer-II Rural Works Department, Government of Bihar, Patna
 7. The Chief-Engineer-III Rural Works Department, Government of Bihar, Patna
 8. The Superintending Engineer Rural Works Department, Work Circle, Chhapra
 9. The Superintending Engineer Rural Works Department, Work Circle, Siwan
- Respondent/s

with

Civil Writ Jurisdiction Case No. 16454 of 2019

Barun Kumar Pandey S/o Late Upendra Nath Pandey Resident of Village Narouli, P.S. Saleempur, Dist.Patna

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Old Secretariat, Patna
2. The Principal Secretary, General Administration Department, Govt. of Bihar, Old Secretariat,Patna
3. The Principal Secreary, Finance Department, Govt. of Bihar, Old Secretariat,Patna
4. The Principal Secretary, Minor Irrigation Department, Govt. of Bihar, Old Secretariat,Patna
5. The Engineer-in-Chief, Minor Irrigation Department,Vishwashraiya Bhawan,Patna
6. The Chief Engineer, Minor Irrigation Department,Vikash Bhawan,Patna
7. The Superintending Engineer, Minor Irrigation Department,Vikash Bhawan,Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 19971 of 2021

Jyoti Kumar Sinha, Son of Rabindra Kumar Sinha, Resident of North Patel Nagar, P.S. - Patliputra, P.O. - Keshrinagar, Disst. - Patna.

... .. Petitioner/s

Versus



1. The State of Bihar, through The Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
2. The Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Secretary (Expenditure), Finance Department, Government of Bihar, Patna.
5. The Engineer - in - Chief - Cum - Special Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
6. The Chief Engineer, Public Health Engineering Department, Govt. of Bihar, Patna.
7. The Superintending Engineer, Public Health Design and Planning Circle No. -2, Patna.
8. The Treasury Officer, Vishbeshwaraiya Bhawan, Bihar, Patna.
9. The Executive Engineer, Public Health Design and Planning Division No. 6, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 9911 of 2022

Sanjay Kumar Singh Son of Late Ramdeep Singh, R/o Village - Kewla, Nima Anjan, P.S.- Madanpur, District- Aurangabad - 824208, At present posted as Junior Accounts clerk in the Office of the Executive Engineer, Public Health Division, Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Public Health Engineering Department, Bihar, Patna.
3. The Principal Secretary, Department of General Administration, Bihar, Patna.
4. The Principal Secretary, Finance Department of Finance, Bihar, Patna.
5. The Engineer-in-Chief, Public Health Engineering Department, Bihar, Patna, Vishwasraiya Bhawan, Patna.
6. The Chief Engineer (Mechanical), Public Health Engineering Department, Bihar, Patna, Vishwasraiya Bhawan, Patna.
7. The Superintending Engineer, Public Health Circle, Sasaram, District - Sasaram.
8. The Executive Engineer, Public Health Division, Sasaram, District - Sasaram.

... .. Respondent/s

with



Civil Writ Jurisdiction Case No. 1535 of 2023

Sanjay Navin Son of Late Surendra Yadav, R/o Ward No.3, Village- Surmaha
Kishanpur, P.S.- Patarghat, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Public Health Engineering Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Additional Secretary, Finance Department, Bihar, Patna.
4. The Engineer-in-Chief-cum-Special Secretary, Public Health Engineering Department, Bihar, Patna.
5. The Chief Engineer (Mechanical), Public Health Engineering Department, Bihar, Patna.
6. The Superintending Engineer, Public Health Circle, Saharsa.
7. The Executive Engineer, Public Health Division, Madhepura.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 1693 of 2023

Rakesh Kumar Son of Late Bindeswari Singh Resident of Village- Mow,
Post- Vidyapatnagar, P.S. and District- Samastipur, presently residing at Ward
No. 9, New Colony, Kahra, P.S. and P.O. and District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Additional Secretary, Finance Department, Bihar, Patna.
4. The Engineer-in-Chief-cum-Special Secretary, Public Health Engineering Department, Bihar, Patna.
5. The Chief Engineer (Mechanical), Public Health Engineering Department, Bihar, Patna.
6. The Superintendent Engineer, Public Health Circle, Saharsa.
7. The Executive Engineer, Public Health Division, Khagariya.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 14709 of 2022)

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

For the Respondent/s : Mr.Uday Shankar Sharan Singh, GP-19

(In Civil Writ Jurisdiction Case No. 12703 of 2019)



For the Petitioner/s : Mr.Siyaram Pandey, Advocate
For the Respondent/s : Mr.Virendra Kuar, A.C. to G.P.-10
(In Civil Writ Jurisdiction Case No. 16454 of 2019)
For the Petitioner/s : Mr.Mukul Prasad, Advocate
Mr. Siya Ram Pandey, Advocate
For the Respondent/s : Mr.Anirban Kundu, SC-24
(In Civil Writ Jurisdiction Case No. 19971 of 2021)
For the Petitioner/s : Mr.Siyaram Pandey, Advocate
For the Respondent/s : Mr.U.P. Singh, AC to SC-4
(In Civil Writ Jurisdiction Case No. 9911 of 2022)
For the Petitioner/s : Mr.Siyaram Pandey
For the Respondent/s : Mr.Bijoy Kr. Sinha, A.C. to AAG-5
(In Civil Writ Jurisdiction Case No. 1535 of 2023)
For the Petitioner/s : Mr.Siyaram Pandey, Advocate
For the Respondent/s : Mr.U.P. Singh, AC to SC-4
(In Civil Writ Jurisdiction Case No. 1693 of 2023)
For the Petitioner/s : Mr.Siyaram Pandey, Advocate
For the Respondent/s : Mr.U.P. Singh, AC to SC-4

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 24-02-2023 Heard learned counsel for the petitioners and learned
counsel for the State.

2. On the request of learned counsel for the petitioners
and with consent of learned counsel for the State, all these writ
applications have been taken up together for consideration.

3. The petitioners were appointed on the sanctioned
and vacant post of Lower Division Clerk (Accounts)/Accounts
Clerk after 28.09.1999 i.e. the date on which the posts in the
cadre of Accounts Clerk were demerged and separated as Junior
Accounts Clerk and Senior Accounts Clerk. These petitioners
were appointed on compassionate ground on the post of Junior
Accounts Clerk in the pay scale of Rs.3050-4590.

4. The Department of Finance, Government of Bihar
was in seisin of certain claims made by the employees of the



cadre of Accounts Clerk who came in service after 01.05.1980 i.e. the date on which the post of Junior Accounts Clerk and Senior Accounts Clerk were merged and as a result of which the Junior Accounts Clerk merged with the Senior Accounts Clerk and became entitled for the pay scale of Senior Accounts Clerk. The claims made by such persons were considered by the Department of Finance as is evident from the resolution contained in memo no.3111 dated 25.03.2015 (Annexure-3 to the writ application).

5. Learned counsel for the petitioners has drawn the attention of this Court towards sub-paragraph (ii) of paragraph 5 of Annexure-3 which according to him will govern the cases of these petitioners.

6. It is stated that by virtue of Annexure '3' to the writ application the pay of the petitioners were revised by the Department but after about six years, all of a sudden the Road Construction Department/Minor Irrigation Department/Public Health Engineering Department reverted the petitioners from the post of Lower Division Clerk (Accounts)/Accounts Clerk to the post of Lower Division Clerk from the existing pay scale of Rs.4000-6000 to the scale of Rs.3050-4590 and reduced their pay scale. The Department has also ordered for recovery which



would be evident from the orders which have been annexed with the writ application.

7. Learned counsel submits that these orders have been issued only to multiply the litigations in utter violation of the litigation policy of the State which would be evident from the fact that earlier identical action taken by the Road Construction Department, Building Construction Department, Public Health Engineering Department and Rural Works Department were subject matter of challenge in CWJC No.9921 of 2017 (Binit Kumar & Ors. Vs. The State of Bihar & Ors.) and other analogous matters which were disposed of vide judgment dated 21.08.2017. The learned writ Court not only quashed the orders of reversion of the petitioners in those cases, but by taking exception to the conduct of the Finance Department, Government of Bihar imposed a cost of Rs.5 lacs. The learned writ Court recorded that earlier in CWJC No.12124 of 2011 (Ram Janam Jha and others vs. The State of Bihar) some of the persons who had been appointed in the accounts clerical cadre at the instance of the Department of Finance had come to this Court claiming the replacement scale of the Junior Accounts Clerk, they had a grievance that they were wrongly given the pay scale of Rs.3050-4590. The learned Court took note of the



resolution of the Finance Department dated 25.03.2015, as contained in Annexure- P-3 of this writ application, showing that all the appointees against different posts in the Accounts Clerical Cadre after 28.09.1999 will get the pay scale of Rs.4000-6000 up to 31.12.2005 and in Pay Band I with grade pay of Rs.2400/- with effect from 01.01.2006. The learned writ Court, therefore, took note of the resolution of the State government and held that no classification has been made in the said resolution in between the regular appointees and those appointed on compassionate ground. The judgment of the learned writ Court in the case of Ram Janam Jha was affirmed by the Hon'ble Division Bench as well as the Hon'ble Supreme Court.

8. Learned counsel further submits that the judgment of the learned writ Court in CWJC No.9921 of 2017 was challenged before the Hon'ble Division Bench in LPA No.1702 of 2017. The Hon'ble Division Bench affirmed the judgment of the learned writ Court, though set aside that part of the order by which cost of Rs.5 lacs had been imposed. The State of Bihar took the matters to the Hon'ble Supreme Court in petitions for Special Leave to Appeal (C) No.23765 of 2018 with analogous matters. All the petitions were, however, dismissed by the



Hon'ble Supreme Court vide order dated 28.09.2019.

9. Learned counsel submits that on the face of the adjudications already done in CWJC No.9921 of 2017 and other analogous matters which had attained finality, there was no reason for the respondents to again come out with the impugned orders of identical nature. This amounts to compelling the employees to indulge in litigation and results in burdening not only its own employees but even the State exchequer in fighting litigations. Surprisingly before issuing such impugned orders no opportunity to show cause was given to the petitioners. In the impugned orders as contained in Annexure-6, 7, 8 and 9 which are in respect of petitioner nos.1 and 2 in CWJC No.14709 of 2022 (Shrinath Kumar & Anr. vs. The State of Bihar and others), there is no reference of the order passed by the learned writ Court in CWJC No.9921 of 2017.

10. Learned counsel for the petitioners, however, submits at this stage that in some of the writ applications particularly one in CWJC No.9911 of 2022 (Sanjay Kumar Singh Vs. The State of Bihar and others) the respondents have attempted to distinguish his case with that of CWJC No.9921 of 2017 and other analogous matters on the solitary ground that in his case he was reverted to the post of Correspondence Clerk



prior to issuance of the Finance Department resolution dated 25.03.2015 (Annexure-3). It is submitted that the distinction drawn by the respondents in Public Health Engineering Department in the case of Sanjay Kumar Singh is completely misconceived inasmuch as it would appear that a learned coordinate Bench of this Court has, upon examining this aspect of the matter in similar cases of some of the persons in CWJC No.17888 of 2019, held that the distinction sought to be drawn is factually and legally unsustainable. The learned coordinate Bench has vide judgment dated 20.12.2022 in CWJC No.17888 of 2019 directed the respondents to consider the case of the petitioners in the light of the decision of this Court in the case of Binit Kumar and consequential reliefs must be given with admissible dues to be paid to the petitioners within three months from the date of receipt/production of a copy of the order.

11. Learned counsel submits that the petitioner in CWJC No.9911 of 2022 has, therefore, challenged the decision as contained in memo no.278 dated 18.04.2020 (Annexure-6 to CWJC No.9911 of 2022).

12. While hearing of the case was going on, learned counsel for the State in CWJC No.12703/2019 (Sujeet Kumar Pandey Vs. The State of Bihar) has informed this Court that so



far as this case is concerned, the grievance of the petitioner has been redressed and the respondent Rural Works Department has come out with office order no.306 dated 03.09.2019 whereby and whereunder the order of reversion of the said petitioner has been recalled/set aside and he has been placed on his original post of appointment i.e. Junior Accounts Clerk. The amount recovered from him has also been ordered to be restored. This decision has been taken during the pendency of the writ application in the light of the resolution no. 3111 dated 25.03.2015 of the Department of Finance.

13. Learned counsel for the petitioners submits at this stage that the case of all other petitioners are similarly situated to the case of Sujeet Kumar Pandey who is petitioner in CWJC No.12703/2019, therefore, they are equally entitled for the identical reliefs.

14. Learned counsel for the State appearing in these writ applications are unable to demonstrate any distinguishable feature of these writ applications which may put these petitioners in different category disentitling them for the reliefs prayed in the writ application. Mr. Bijoy Kumar Sinha, learned AC to AAG-5 has, however, made efforts to draw the attention of this Court towards Annexure-6 to CWJC No.9911 of 2022



and submits that the case in which the reversion was done prior to the Finance Department's resolution no. 3111 dated 25.03.2015 would stand on a different footing and at least those cases of reversion may be put in a different category. So far as other writ applications are concerned, no distinction has been pointed out to this Court.

Consideration

15. Having heard learned counsel for the petitioners in all these writ applications and the learned counsel for the State, this Court finds that admittedly these are the cases in which the petitioners were appointed on compassionate ground on the post of Junior Accounts Clerk in the pay scale of Rs. 3050-9040. The matters relating to the anomalies in the pay scale of Junior Accounts Clerk and Senior Accounts Clerk have been fully discussed in the Finance Department's resolution no. 3111 dated 25.03.2015. According to this, prior to 01.05.1980 in the cadre of Accounts Clerk there were posts of Junior Accounts Clerk and Senior Accounts Clerk. Vide circular letter no. 1876 dated 18.02.1981, these two posts were merged with effect from 01.05.1980. After the merger all the Junior Accounts Clerk who were in the pay scale of Rs.220-315 got the benefit of the pay scale of Rs. 260-408 which was the pay scale of the Senior



Accounts Clerk. They were upgraded as Accounts Clerk. The Pay Revision Committee constituted for considering the 4th pay revision of the State Government employees, however, did not take note of this merger and prescribed two different scales for Junior Accounts Clerk and Senior Accounts Clerk. As a result of this, those employees who had entered in the cadre of Accounts Clerk after 01.05.1980 were claiming the pay scale of Rs. 4500-7000 with effect from 01.01.1996 i.e. the date of recommendation of the 6th pay revision committee. Several orders were being passed by this Court. The Finance Department, therefore, in order to resolve the issues, came out with the resolution no. 3111 dated 25.03.2015 contained in Annexure -3. Learned counsel for the petitioner has relied upon paragraph '5' thereof which are quoted hereunder for a ready reference:-

“5. सम्यक् विचारापरांत कार्य विभागों के लेखा लिपिक सवर्ग के वेतनमान के संबंध में निम्नलिखित निर्णय लिया गया है :-

(i) दिनांक 01.05.1980 से दिनांक 27.09.1999 की तिथि तक इस सवर्ग में नियुक्त कर्मी एकीकृत पदनाम. “वरीय लेखा लिपिक” से अभिहित होंगे। ऐसे लेखा लिपिक को दिनांक 01.04.1981 के प्रभाव से रू0 730-1080/- दिनांक 01.01.1986 के प्रभाव से रू0 1400-2300/ दिनांक 01.01.1996 के प्रभाव से रू0 4500-7000/- तथा दिनांक 01.01.2006 के प्रभाव से पी.वी. -1 + 2800/- अनुमान्य होगा।

(ii) दिनांक 28.09.1999 एवं उसके बाद की तिथियों में कार्य विभागों के लेखा लिपिक सवर्ग में कनीय लेखा लिपिक/निम्नवर्गीय



लेखा लिपिक/निम्नवर्गीय (लेखा) के पद पर नियुक्त कर्मी कनीय लेखा लिपिक के पदनाम से अभिहित होंगे तथा उन्हें दिनांक 31.12.2005 तक रू0 4000-6000/- तथा दिनांक 01.01.2006 से पी.वी. -1 + 2400/- का वेतनमान अनुमान्य होगा। वरीय लेखा लिपिक कोटि में प्रोन्नति के बाद उनका वेतनमान 4500-7000 तथा दिनांक 01.01.2006 के बाद पी.वी. -1 +2800 रू अनुमान्य होगा।”

16. On bare perusal of sub-paragraph (ii) of paragraph ‘5’ of Annexure-3 it would appear that for those who came to be appointed in the cadre of Accounts Clerk on or after 28.09.1999, they will be known as Junior Accounts Clerk and upto 31.12.2005 they would be entitled for pay scale of Rs. 4000-6000 and with effect from 01.01.2006 they would be entitled for PB-1+2400 pay scale. On their promotion to the Senior Accounts Clerk, they would be placed in the pay scale of Rs. 4500-7000 and after 01.01.2006 PB-1+2800 would be admissible.

17. The aforementioned resolution as contained in Annexure ‘3’ came to be considered by the learned coordinate Bench of this Court in C.W.J.C. No. 9921 of 2017 and other analogous matters. A bare perusal of the facts of those cases briefly noted in the judgment of the learned coordinate Bench would show that the petitioners in those cases were also the compassionate appointees, they entered in the cadre of Junior Accounts Clerk and were placed in the pay scale of Rs. 3050-



4590. The petitioner in one of the analogous matters being CWJC No. 8538 of 2016 had been reverted to the post of lower division clerk vide memo no. 733 dated 08.11.2014 i.e. prior to the Finance Department's resolution dated 25.03.2015. The writ petitioners in those cases had been reverted to the scale of lower division clerk and orders of recovery had been issued for the excess salary drawn by them in the accounts cadre. The State-respondents contested the writ petitions on the ground that the benefit of the resolution no.3111 dated 25.03.2015 of the Finance Department did not cover the case of compassionate appointees rather was applicable only to direct recruits who had entered service after facing regular selection process.

18. The learned writ court noticed that this issue had earlier drawn attention of this Court in C.W.J.C. No. 12124 of 2011 (Ram Janam Jha and ors. versus the State of Bihar). A learned coordinate Bench of this Court had quashed the order of the Finance Department dated 03.08.2010 passed on similar lines and held that the petitioners of those cases would be treated as accounts clerk throughout with all consequential benefits. A direction was also issued to give the pay scale so granted to them and no recovery shall be permissible. An Intra-court appeal giving rise to LPA No. 206 of 2016 (State of Bihar



& Ors. Vs. Ram Janam Jha and Ors.) did not succeed. The Division Bench took note of the Finance Department's resolution no. 3111 dated 25.03.2015 and held that since the State Government itself has decided to do away with the distinction between the junior accounts clerk and senior accounts clerk and since a decision was taken to grant the pay scale meant for senior accounts clerk to all accounts clerk whether appointed on compassionate ground or otherwise, all of them would be entitled to the same benefit.

19. The State of Bihar went to the Hon'ble Apex Court in S.L.P. © No. 2982 of 2017, the same was dismissed by the Hon'ble Supreme Court vide judgment and order passed on 10.02.2017. The learned writ Court also noticed that while Letters Patent Appeal of the State was pending before the Hon'ble Division Bench, the Finance Department had tried to preempt the decision by issuing resolution no.5483 dated 11.07.2016 to hold that the benefit of resolution no. 3111 dated 25.03.2015 would not cover the case of the compassionate appointees. This conduct of the department was heavily deprecated by the learned writ Court.

20. This Court finds substance in the submissions of the learned counsel for the petitioners that once the judgment of



the learned writ Court in CWJC No. 9921 of 2017 has been affirmed by the Hon'ble Division Bench in LPA No. 1702 of 2017 and other analogous matters and a challenge to the same has already failed before the Hon'ble Supreme Court, there was no reason for the State-respondents to repeat the same mistake again and again. From Annexure '11' to CWJC No. 14709 of 2022, it is evident that the then Secretary (Expenditure), Finance Department had earlier considered several judgments of this Court and asked for compliance with those judgments.

21. This Court has also come across an order of the Hon'ble Supreme Court in petition for Special Leave to Appeal (c) No. 19255 of 2021 arising out of final judgment and order dated 17.09.2021 in SAD No.335 of 2021 passed by the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench (State of UP & Anr. Vs. Aishwarya Pandey) in which the fact was that the petitioner was appointed on the post of officer on special duty on compassionate ground, she was placed in the pay scale of Rs.6500-10,500/- which was lower than the pay scale required to be paid to Officer on Special Duty. A writ petition was filed before the High Court and the same was allowed directing the State-respondents to pay Rs. 8000-13500/- pay scale which pay scale was available for the post of Officer



on Special Duty. The State went in appeal before the Hon'ble Supreme Court and tried to draw a distinction saying that the writ-petitioner was appointed on compassionate ground. This was rejected by the Hon'ble Supreme Court. It was held inter alia that "there cannot be two different pay scales for the employee appointed on compassionate ground and the employee appointed on regular basis. The moment a person is appointed on a particular post, that person is entitled to the pay scale of the very post, even if the appointment is on compassionate ground. ..." This judgment of the Hon'ble Apex Court is being quoted here only to further strengthen the view of this Court based on the judgment of the learned coordinate Bench in CWJC No. 9921 of 2017 and other analogous matters.

22. As regards the reasons shown in CWJC No. 9911 of 2022 in Annexure '6', this Court finds that the respondents have made factual mistake in saying that this case is different from one decided by the learned co-ordinate Bench in CWJC No. 9921 of 2017 and other analogous cases. This Court has purposely pointed out from the judgment of the learned co-ordinate Bench itself that CWJC No. 8538 of 2016 which was one of the analogous matters pertaining to P.H.E.D. was a case in which the petitioner had been reverted to the post of lower



division clerk prior to the Finance Department's resolution dated 25.03.2015. The same department cannot be expected to remain unmindful of the factual aspects of the judgments of the Court which are available on the record. A learned writ court in C.W.J.C. No. 17888 of 2019 has already held in similar circumstance that the reason shown is factually and legally unsustainable. This Court takes the same view as regards Annexure '6' to C.W.J.C. No. 9911 of 2022.

23. In the light of the aforementioned discussions, this Court would come to a conclusion that the impugned orders in these writ applications have been passed without application of judicious mind and are dehors to the judgments of this Court which have already attained finality. This Court is at pain to record that the conduct of the respondent authorities of this departments in repeating the same and one mistake cannot be said to be a mere case of unawareness on their part, rather these are the matters which compel this Court to take a view that the respondents are not acting with a positive bend of mind. They have no respect for their own litigation policy and they are multiplying the litigations burdening their own employees and the whole system.

24. This Court finds that the case of these petitioners



are squarely covered by the judgment of this Court in C.W.J.C. No. 9921 of 2017 which has been tested up to the Hon'ble Apex Court. These are also similarly situated with C.W.J.C. No. 12703 of 2019 in which the Rural Works Department has already redressed the grievance of the petitioners.

25. The petitioners would, thus, be entitled for the same benefit and the consequential reliefs as have been granted to the petitioners in those writ applications.

26. This Court, therefore, while quashing the impugned orders in terms of the prayers made in these writ applications, allow these writ applications with a cost of Rs. 10,000/- each. The State would be at liberty to recover these costs from the erring officials in accordance with law.

27. These writ applications are accordingly allowed.

(Rajeev Ranjan Prasad, J)

vats/-arvind

U			
---	--	--	--

