

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7583 of 2021

1. Jagadish Prasad Sinha S/o Late Indra Lal Singh R/o Village- Chinia Bela, P.S. Punpun, Distt- Patna. Superannuated from the post of Surveyor cum In-Charge Junior Engineer, Investigation and Planning Division, Gandak Area Development Agency Chhapra.
2. Chandeshwar Prasad Yadav S/o Late Ganga Prasad Yadav R/o Village- Habbipur, Post- Jatdumari, P.S.- Punpun, Distt- Patna. Superannuated from the post of Surveyor, Investigation and Planning Division, Gandak Area Development Agency Motihari, East Champaran.
3. Nageshwar Yadav S/o Late Deoki Prasad Yadav R/o Village- Habbipur, Post- Jatdumari, P.S.- Punpun, Distt- Patna. Superannuated from the post of Surveyor, Investigation and Planning Division, Gandak Area Development Agency Chapara Division, Saran.
4. Surendra Prasad Singh S/o Late Ram Nagina Singh R/o Vill and Post- Dariyapur, P.S. Parsa Bazar, Distt- Patna. Superannuated from the post of Surveyor, Investigation and Planning Division, Gandak Area Development Agency, Siwan.
5. Radha Pandey S/o Late Baleshwar Pandey R/o Village and Post- Dariyapur, P.S.- Parsa Bazar, Distt- Patna. Superannuated from the post of Treasurer Guard, form the office of Investigation and Planning Division, Gandak Area Development Agency, Muzaffarpur.
6. Om Prakash Singh S/o Late Sidheshwar Singh R/o Mohalla- Noormohiuddinpur (Shivnagar Road No. 2), Post- Punpun, P.S. Parsa Bazar, Distt- Patna. Superannuated from the post of Junior Engineer, form the office of Investigation and Planning Division, Gandak Area Development Agency, Bettiah, West Champaran.
- 7.1. Mostt Chinta Devi W/o Late Prem Sao @ Prem Kumar Gupta R/o Mohalla- Noormohiuddinpur (Shivnagar Road No.2), Post- Punpun, P.S.- Parsa Bazar, Distt- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Water Resources Department, Old Secretariat, Sichai Bhawan, Government of Bihar, Patna.
2. The Secretary, Water Resources Department, Old Secretariat, Sichai Bhawan, Government of Bihar, Patna.
3. The Principal Secretary, Department of Finance, New Secretariat, Government of Bihar, Patna.
4. The Director, Water and Land Management Institute (WALMI), Phulwari Sharif, Patna.
5. The Deputy Secretary, Command Area Development Directorate, Water Resources Department, Old Secretariat, Sichai Bhawan, Bihar, Patna.
6. The Superintending Engineer, Command Area Development Circle, Combined Building, Muzaffarpur.



... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jai Prakash Verma, Advocate
For the Respondent/s : Mr. Vinay Kirti Singh (GA2)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 13-04-2022

Heard learned counsel for respective parties.

In the instant petition, petitioners have prayed for the following reliefs:-

“(i) For quashing of aggrieved portion of order as contained in memo no. 368 dated 14.08.2020 passed by the Secretary, Water Resources Department (respondent no. 2) as contained in Annexure-18, whereby and where under claim of the petitioner no. 1 and others similarly situated persons to the petitioner no. 1 (who are petitioner no. 2 to 7 herein) with regard to grant of 5th pay scale from January 2002 to December 2008 and 6th pay scale from 1.4.2007 to 31.3.2012 has been rejected and it has been found wholly proper with regard to earlier grant of benefits under 5th pay scale w.e.f. 1.1.2009 and 6th pay scale w.e.f. 1.4.2012. And lastly the representation of the petitioner no. 1 has been rejected.

(ii) Further prayer for a direction to the respondents to grant to the petitioners arrears of 5th pay scale w.e.f. January 2002 to December 2008 and arrears of 6th pay scale w.e.f. 1.4.2007 till 31.3.2012 like state government employees as per resolutions of the finance department in this regard and further grant all consequential benefits to the petitioners along with suitable interest thereon as well as cost of litigation.



(iii) And for the other necessary relief/reliefs for which the petitioners are entitled to in accordance with law.”

This is third round litigation in respect of extending 5th and 6th pay to the petitioners. Petitioners are employees of the Gandak Area Development Agency (For short ‘GADA’). State Government extended 5th and 6th pay to its employees in the year 1996 w.e.f. 01.01.1996, similarly, in the year 2007 w.e.f. 01.04.2007. Insofar as extending 5th and 6th pay to the employees of GADA is concerned, it was adopted in giving effect from 01.01.1996 and 01.04.2007 respectively. However, the petitioners have not been extended 5th and 6th pay. With reference to the aforesaid date, on the other hand, the date of extending 5th and 6th pay is 01.01.2009 and 01.04.2012.

Thus, the petitioners feeling aggrieved and dissatisfied presented the petition and also exhausted the remedy of LPA wherein this Court remanded the matter to the State Government to hear the affected persons and proceed to pass the order. Thus, the State Government passed the impugned order after hearing the petitioners. Thus, grievance of 5th and 6th pay was agitated by association and individuals like petitioners. The State Government has taken a decision relating to financial constraint in the Agency, therefore, the petitioners’ entitlement of 5th and 6th pay has been



postponed from 01.01.1996 to 31.12.2001 and 01.04.2007 to 31.03.2012. Such financial constraint cannot be a hurdle for extending 5th and 6th pay which is due to the petitioners in terms of the policy evolved by the State Government and the same has been adopted by GADA. Postponement of granting 5th and 6th pay merely on the ground of financial constraint cannot be appreciated for the reasons that 5th and 6th pay Rules are statutory in character. Therefore, if the petitioners fulfil the eligibility criteria as on 01.01.1996 for 5th pay and 01.04.2007 for 6th pay they are entitled. Lack of money in the GADA Agency is not an answer for postponement of 5th and 6th pay benefit.

Accordingly, the present petition is allowed and the impugned order dated 14.08.2020 (Annexure-18) stands set aside so far as the petitioners are concerned.

The concerned authority is hereby directed to calculate and disburse the difference of amount in respect of 5th and 6th pay namely the intervening period from 01.01.1996 to 31.12.2001 and from 01.04.2007 to 31.03.2012. The same shall be calculated and disbursed to each of the petitioners including legal heirs of seventh petitioner within a period of four months from the date of receipt of this order failing which petitioners are entitled to litigation cost



@ Rs. 10,000/- each of the petitioners. The cost shall be paid if the petitioners’ settlement is beyond four months.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

