

---

**(2009) 12 PAT CK 0017**  
**In the Patna High Court**  
**Case No : CWJC No. 15386 of 2009**

Gupteshwar Mishra and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

---

**Date of Decision :** 16-12-2009

**Acts Referred:**

**Citation :** (2011) 2 PLJR 632

**Hon'ble Judges :** Navin Sinha, J

**Bench :** Single Bench

---

## Judgement

Navin Sinha, J.—Heard learned Counsel for the Petitioners and learned Counsel for the State.

2. The Petitioners, in their fight for confirmation/regularization on the post of Jail Warders on which they were appointed in ad hoc capacity initially, came to this Court earlier in CWJC No. 10910 of 1994 aggrieved by the direction to appear before a Selection Committee after what they alleged, orders for their regularization had been passed. In pursuance of the directions of this Court a fresh order dated 30.8.1996 followed requiring them to appear before the Selection Committee which was again assailed in CWJC No. 998 of 1997. This was disposed off with directions to appear before the Selection Committee but with certain guidelines to be followed by the Respondents while considering their cases.

3. Counter affidavit has been filed on behalf of the Respondents, which acknowledges that the case of the Petitioners is till pending consideration by the Selection Committee/Bihar Staff Selection Commission. Considerable time seems to have passed since the orders of this Court earlier and there is no plausible explanation in the counter affidavit as to why the process has been kept pending.

4. This Court, therefore, directs the Respondents to complete the process for confirmation/regularization of the Petitioners by the Selection Committee within a maximum period of six months in terms of the directions contained in CWJC

No. 998 of 1997. Liberty is given to the Respondents to bring this order appropriately to the attention of the Bihar Staff Selection Commission which also shall remain liable for compliance of this order.

5. The next contention on behalf of the Petitioners is for grant of regular pay scale pending such confirmation/regularization and which is alleged to have been granted to certain others appointed in the same transaction as the Petitioners and awaiting regularization/confirmation alike them.

6. A regular pay scale is granted to one who is in regular service only. A person awaiting confirmation/regularization is not in regular service and is not entitled to grant of a regular pay scale. If regular pay scale is granted to such a person, shall it not tantamount an order of confirmation/regularization by an indirect method contravening and flouting the direction of this Court for consideration of such cases through the Selection Committee. Any such orders passed by the authorities being contrary to law, this Court finds it difficult to grant relief to the Petitioners for grant of regular pay scale by invoking Article 14 of the Constitution in a negative manner of equality.

7. This Court indeed considers it a very serious matter, if a regular pay scale has been given to any Jail Warder awaiting confirmation/regularization in terms of the order of this Court in CWJC No. 998 of 1997 and without complying with the directions contained therein.

8. Let the Principal Secretary-cum-Commissioner, Department of Home, Government of Bihar, Patna examine this aspect of the matter on the administrative side and apart from the corrective action in law that may fall for his consideration, he is also directed to hold enquiry if regular pay scale has been given to Jail Warders awaiting confirmation/regularization flouting the orders of this Court in CWJC No. 998 of 1997 without having such person to go through the Selection Committee and their appointment having been regularized/confirmed.

9. Let this part of the order be complied with within a maximum period of two months from the date of receipt and/or production of a copy of this order and the concerned Respondent shall pass reasoned and speaking order to facilitate judicial review.

10. The writ application stands disposed.