

(2015) 04 PAT CK 0052

In the Patna High Court

Case No : CWJC Nos. 15661, 15667 and 16299 of 2014

Najmuddin and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 07-04-2015

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2015) 3 PLJR 505

Hon'ble Judges : Ajay Kumar Tripathi, J

Bench : Single Bench

Advocate : Sanjay Kumar Giri, for the Appellant; Prabhat Kumar Singh, Advocates for the Respondent

Final Decision : Allowed

Judgement

Ajay Kumar Tripathi, J—Since all the three writ applications raise common question of fact and law, they are taken up together and heard together. Petitioners are pleading discrimination in matter of grant of pay parity and allowances, which are available to similarly situated ministerial employees of Rajendra Agriculture University, Pusa, Samastipur. There is a long legal battle which has been fought out earlier by a set of employees. They had approached the High Court earlier when a decision taken by the Syndicate of the University to extend certain benefits of pay scale was not being made available by the State of Bihar and in fact, such recommendation even came to be rejected under the powers of the State Government exercised under Section 25(2) of the Bihar Agriculture Universities Act, 1987. In the first round of rejection the matter was remitted back to the authority to take a decision giving certain direction. However, the State stuck to its original position which led to a second round of filing of writ application which was finally heard in detail and decided in favour of the petitioners by the High Court. A copy of the said order is Annexure-6.

2. Aggrieved by the decision of the learned Single Judge, an LPA was filed by the respondents. The LPA came to be dismissed after a detailed consideration, a copy

of which is Annexure-7 and thereafter even the SLP filed by the State of Bihar came to be dismissed.

3. Since the State lost the legal battle against those employees right up till the Hon"ble Apex Court instead of being a modal employer and a welfare State, it extended the benefits only to such persons, who were party to the previous round of litigation. The benefit was limited to those employees alone in whose favour the said decision was rendered. This has caused heart burning amongst other similarly situated employees because a dichotomous situation has been created by issuance of such a notification where for the same set of work and responsibility, identical set of employees are getting two different remuneration and pay scale, which is neither a healthy position for good administration nor meets the standards of Articles 14 and 16 of the Constitution of India. A class amongst class cannot be created on the basis of a kind of plea that since those set of employees have a judicial order in their favour, therefore, they will get a different pay scale than those who were silently waiting for a fair treatment at the hands of the respondents.

4. The Court has gone through Annexures-6 and 7, which are the orders which form the basis for direction for grant of benefit of higher pay scale and other allowances going with the decision of the Syndicate. The rational and reasoning given both by the learned Single Judge as well as the Division Bench cannot be read in isolation to be limited to those petitioners. Those petitioners were only agitating the grievance of the majority and to that extent it can be also said that those writ petitioners were representative in nature raising a legitimate right for better pay scale of the employees especially of the ministerial kind.

5. Counsel for the State takes a plea that the University Syndicate cannot take unilateral decision and create obligation of financial kind without having approval of the State Government. Such a submission does merit consideration but that would have held the ground provided the present litigation was not an offshoot of previous adjudication made on similar kind of claims. The issues have already been set to rest. The entitlement has already been ordered in favour of the set of employees who had dared to approach the Court and asserted their right. This Court is not unmindful of the fact that looking at the working condition as well as the kind of salary which most of these employees get it is not easy for everybody to engage a counsel and litigate before the High Court or even the Hon"ble Apex Court.

6. The respondent State as well as the University, therefore, is bound by even preamble of the Constitution. They must work as a welfare State and extend the benefit across the Board to every employee and not discriminate between the employees who have come to the Court and those who have silently suffered the discrimination. The writ applications are allowed. The benefit, which has been extended to similar ministerial employees in terms of the direction contained in Annexures-6, 7 and 8, shall accrue to these petitioners and all such employees, who have not approached this Court for similar relief.