

(2008) 01 PAT CK 0116
In the Patna High Court

Sudarshan Chaudhary and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 22-01-2008

Acts Referred:

Citation : (2008) 01 PAT CK 0116

Judgement

Navin Sinha , J.—A Bench of this Court in CWJC No. 13060 of 2005 was considering the challenge to orders of transfer by the two petitioners therein. The orders of transfer with regard to the two petitioners were on separate documents in their individual names though of the same date. The Bench questioned the maintainability of one composite application by them when their cause of action was individual based on different and distinct documents.

2. Pursuant to the same, the stamp reporter, in some cases has been pointing out the need for separate writ applications by the petitioners while in some the defect for additional court fees is being pointed out. It is submitted at the Bar that this is creating an anomalous position and there does not appear to be any consistency in the stamp reports.

3. A Division Bench of this Court in Smt. Krishna Pati Devi Ors. Vs. The State of Bihar Ors., ruled at paragraph 4 as follows:

4. Having heard counsel and going through the reasons of the learned writ court, We are of the opinion that whenever interest is common or similar, whether by one stroke of pen, if the impugned notification can be set aside, one set of court fee is only required. In the instant case, considering the relief of the petitioners, the relief as claimed is common. It is not that though by one notification their services were terminated but they have claimed different reliefs. This is how the common interests between the co-petitioners are to be judged in respect of payment of court fee. This being so, we are of the opinion that if one set of court fee is paid while challenging the impugned order in the writ petition, that is sufficient and for individual petitioners no separate court fee is required.

4. This was followed by another Bench decision reported in 2001 (3) PLR 53 (Ram Nandan Sharma and Ors. v. The State of Bihar and Ors.) holding at paragraph 4 as follows:

4. Thus, what is relevant is that two or more persons cannot join in a single application for a writ of mandamus to enforce separate claims, but where the claims are same and against the same authority, two or more persons can join in a single application for a writ of mandamus.

5. The issue came up afresh in Shiv Shankar Pandey and Others Vs. The Union of India (UOI) and Another when the petitioners relied upon the former two decisions to support their claim of a single court fee when the prayer was common for regularization. Quoting the provisions of Article I(d)(i) of Schedule II of the Court Fees Act as amended by Section 2 of Court Fees (Bihar Amendment) Act, 1995 (Bihar Act 7 of 1996) in its application to Article 226 of the Constitution the Bench noted that Rs. 250/- was payable on a petition under Article 226. Court fee was payable not on the relief sought but on the petition, grant of relief to one of the petitioners would not automatically result in relief to others. Supporting its discussion by Mota Singh and Others Vs. State of Haryana and Others, the Court held at paragraph 5 as follows:

5. Here each of the petitioners is praying for regularization of their services and for payment of salary in the scale of Class IV employee. Here each of the petitioners are praying for individual relief. It has to be borne in mind that petition is on behalf of each of them. Although petitioners have joined together in this petition but in my opinion petition shall be deemed to have been presented on behalf of each of the petitioners separately. As each of the petitioners has common and joint interest they may be allowed to present joint petition but the petition being on behalf of each of the petitioners, each shall be liable to pay separate court fee. In my opinion, seeking common relief in a writ petition may be relevant for decision on the question as to whether joint petition can be preferred, but this issue shall have no relevance at all on the question of payment of court fee. Article 1 of Schedule II of the Court Fees Act provided for fixed fees on application or petition and once it is held that joint petition filed on behalf of several petitioners is, in sum and substance, petition on behalf of each of the petitioners, separate court fee deserves to be paid.

6. In light of the aforesaid discussion, this Court holds that where by one stroke of pen in pursuance of one document several persons are affected they may approach this Court in one single writ petition. They may also do so when they claim a common relief. This would also save multiplicity of cases before this Court when the dockets are bursting at their seams. In such a case they would all be deemed to have approached this Court individually and would therefore necessarily be required to pay separate court fees each as if they had come to this Court in individual writ applications.

7. In a case where similar orders are passed with regard to several persons, but,

they are not incorporated in one document and are couched in common language but in separate documents, quite obviously they would be required to come to this Court in separate writ applications which may or may not be heard together at the discretion of the concerned Bench. That was the import of the order of this Court dated 18.10.2005 in CWJC No. 13060 of 2005.

Learned counsel for the petitioner prays for one week's time to file 13 additional sets of court fee, failing which this application shall be confined to petitioner No. 1 only.