

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 9687 of 2012

CNR No. BRHC010657282012

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1. Hari Mohan Mishra Son Of Ramoudar Mishra Resident Of Vill.- Kaina, P.S. Kaina, District- Samastipur
 2. Shashi Kant Jha Son Of Shri Vishwanath Jha At Present- Koto P.T., P.S. Patratu, Dist.- Ramgarh, Jharkhand, At Present Working Aram Katihar, Block Compass, Katihar
 3. Brijendra Mani Son Of Late Rambriksh Choudhary Resident Of Ghusia Khurd, P.S. Bikramganj, Dist.- Rohtas, Bihar
 4. Brijendra Mani Son Of Late Rambriksh Choudhary Resident Of Ghusia Khurd, P.S. Bikramganj, Dist.- Rohtas, Bihar
 5. Niraj Kumar Verma Son Of Shri Manohar Prasad Verma Resident Of 334 E Chak Raghunath, P.S. Naini, District- Allahabad, Uttar Pradesh
 6. Prabhat Kumar Singh Son Of Late Rameshwar Prasad Singh Resident Of Dharampur, P.O.- Madhodih, P.S. Tarapur, Dist.- Munger
 7. Binod Kumar Singh Son Of Sri Fagendra Singh Resident Of Vill.- Chouki, P.S.- Sahebpur Kamal, Dist.- Begusarai
 8. Ajit Kumar Son Of Ram Rekha Singh At P.O.- Sihma, P.S.- Matihani, District- Begusarai

... .. Petitioner/s

Versus

1. The Union Of India through its secretary, department of agriculture and cooperation, government of india, krishibhawan, new delhi.
2. The Secretary, Department Of Agriculture And Cooperation, Government Of India, Krishi Bhawan, New D
3. The Joint Secretary Extension Government Of India, Department Of Agriculture, Cooperation, Ministry Of Agriculture, Krishi Bhawan, New Delhi
4. The State Of Bihar Through Its Chief Secretary, Old Secretariat, Bihar, Patna
5. The Agriculture Production Commissioner, Government Of Bihar, Patna
6. The Secretary-Cum-Nodal Officer, 'Atma Yojana', Department Of Agriculture, Government Of Bihar, Pat
7. The Director Agriculture, Government Of Bihar, Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 832 of 2019

CNR No. BRHC010657282012



Jagat Narayan Mishra S/o- Shri Ram Chandra Mishra resident of Village-
Ladugama, P.O.- Agai, P.S. Benipatti, District- Madhubani at present residing
at Mohalla- Alkapuri, House No.- D-3/7, P.S. Sadar, Bhagwanpur, District-
Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of
Agriculture, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Agriculture, Govt. of Bihar, Patna.
3. The Agriculture Technology Management Agency, Muzaffarpur represented
through its Chairman-cum- District Magistrate, Muzaffarpur.
4. The District Magistrate-cum- Chairman, The Agriculture Technology
Management Agency (ATMA), Muzaffarpur.
5. The Project Director, The Agriculture Technology Management Agency
(ATMA), Muzaffarpur.
6. The Governing Body of The Agriculture Technology Management Agency
(ATMA), Muzaffarpur.
7. The Director, Project Planning and Monitoring-cum- State Nodal Officer
(ATMA Scheme), Govt. of Bihar, Department of Agriculture, Government of
Bihar, Vikas Bhawan, New Secretariat, Patna- 800015.
8. The Director, Bihar Agriculture Management Training Institute (BAMETI),
Bihar, Patna.
9. The Union of India, Ministry of Agriculture, Govt. of India, New Delhi.

... .. Respondent/s

Appearance:

(In Civil Writ Jurisdiction Case No. 9687 of 2012)

For the Petitioner/s	:	Mr. Sharda Nand Mishra, Advocate
	:	Ms. Isha Mishra, Advocate
For the Respondent/s	:	Mr. Deepak Sahay Jamuar, AC to AAG-4
(In Civil Writ Jurisdiction Case No. 832 of 2019)		
For the Petitioner/s	:	Mr. Aman Kumar, Advocate
For the Respondent/s	:	Mr. Raghwanand, GA-11
	:	Mr. Rajnish Shandilya, AC to GA-11

CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
CAV JUDGMENT

Date : 27-10-2026

C.W.J.C. No. 9687 of 2012

Heard the learned counsel for the petitioners and the
learned counsel appearing on behalf of the State.



2. The present writ petition has been filed for the following reliefs: -

“That this is an application for issuance of writ in the nature of writ of certiorari for quashing the letter memo No. PPM-105/2009(Part) 1626 dated 21.03.2012 issued under the joint signature of the Secretary, Agriculture Department, Government of Bihar and Joint Secretary (Extension), Government of India, Department of Agri & Coopn. Ministry of Agriculture, New Delhi, where by and where under mentioned that the claims of petitioners for running scale as a matter of right is dismisses, moreover, higher emoluments within the above mentioned ceiling can be considered only the competent authority in the State Government and further quashing letter memo. no. ATMA-11/2010-1794 dated 30.03.2012 by which fixed scale Rs 21,000/ and directed to recover the excess payment in the compliance of letter memo 1626 dated 21.03.2012, the aforesaid letter passed without considering case of petitioners in the light of the orders and direction issued by this Hon'ble High Court, Patna lastly on 17.11.11 passed in C.W.J.C. 10107/2010 as well as advertisement of selection and Guideline of ATMA Scheme, 2010 and its Annexure-III (b) rather petitioners have been



compelled to withdrawn payment as fixed salary/scale Rs. 21,000 instead of the admissible scale of pay as Deputy Project Director, Agricultural Technology Management Agency (hereinafter referred to as the 'ATMA'). And further quashing the letter memo no. 5060 dt. 25.08.2010 issued under signature of Additional Secretary, Agriculture Department, by which revised the service condition of the petitioners and hold that Officer in the Cadre of Bihar Agriculture Service Category-I only be posted in the District Level ATMA against the vacant and sanctioned post of Project Director / Dy Project Director which was not provided under scheme of ATMA and guide line of the earlier appointment and further quashing memo no. 1016 dt. 11.02.2011 by which directed to amended by adding thereto a clause that the petitioners have been appointed on fixed salary and not a pay scale and further issuance of a writ in the nature of writ of mandamus commanding the respondents to pay scale as petitioners were getting scale from date of appointment since 2006 to till March 2012 as scale of pay and other allowances, which they are entitled to as Deputy Project Director, ATMA; in accordance with the revised ATMA scheme of the Government of India, Ministry of Agriculture, issued vide letter



no F. No. 9-4/2008 -AE dated 16.04.2010 to all Agriculture Production commissioners of all the States. This is also for a direction to pay to the petitioners their salary at the basis of the pay scale with they are entitled to as per the basis of which they were selected and appointed and its arrears and further give other legal consequential benefits attached to post.”

BRIEF FACTS

3. The brief facts, which gave rise to the present writ petition are that the Agricultural Technological Management Agency (ATMA) was for the first time launched under the National Agricultural Technological Project Agency (NATPA) in 1997 with the aid of the World Bank in altogether 28 districts of the country, including 4 in the State of Bihar, namely, Patna, Madhubani, Munger and Muzaffarpur. The said agency was established to work as an agency to ensure stability to the agricultural development at the district level. The agencies were established for the unification of the activities pertaining to agricultural extension, research and diversification of public agricultural extension system management. The NATPA came to an end on 30.06.2005. The Department of Agriculture and Cooperation, Ministry of Agriculture, Government of India implemented inter alia support to State Extension Program for extension reforms during the 10th five-year plan. The fund etc.



was to be provided by the Union of India to the States and the Union Territories for undertaking extension reforms within the broad purview of the policy framework for agriculture extension applying with its key areas/norms. In order to implement the aforementioned Central Government scheme, the State Government decided to establish ATMA in 15 districts of the State of Bihar, which also includes the 4 districts mentioned earlier. Vide Memo No.1042 dated 29.03.2006, issued under the signature of the Joint Secretary, Department of Agriculture, Government of Bihar, various posts, including the post of Deputy Project Director for each ATMA was created and sanctioned within the 15 Districts of the State. The pay scale for the said post was fixed at Rs.6500-200-10500/-. Apart from the said pay scale, the dearness allowance/housing allowance etc. was also to be given. The department came out with an advertisement/notice in the Hindi daily newspaper Hindustan on 01.06.2006 inviting applications for the post of Project Director and Deputy Project Director in ATMA in the different districts under the support to extension program for extension reforms. The scale of pay of Deputy Project Director was mentioned as Rs.6500-200-10500/-. It was specifically mentioned that on the post mentioned in the advertisement i.e. the Project Director and the Deputy Project Director, the appointment will be made on contract basis on a fixed



pay. It was further mentioned that the appointment shall be made for the financial year 2006-2007 and if the scheme will be extended, the services will also be extended on review.

4. It is the case of the petitioners that the petitioners fulfilled the criteria for appointment on the post of Deputy Project Director and accordingly, they submitted their application form for the said purpose in various districts. Subsequently, all the 8 petitioners were duly selected in different districts on the post of Deputy Project Director and in terms thereof, appointment letters were issued by the respective District Magistrates-cum-Chairman, ATMA. In the said appointment letter, so far, the petitioner no.1, 2, 4 & 6 are concerned, it was specifically mentioned that the appointment is being made in the pay scale of Rs.6500-200-10500/- on contract basis and on a fixed pay. So far, the petitioners no.3 & 5 are concerned no such clause of fixed pay was mentioned and so far, the petitioner no.7 & 8 are concerned no appointment letter is on record. The petitioners submitted their joining and started getting the pay scale. Even after expiry of financial year 2006-2007, the petitioners continued to work and subsequently, post facto sanction/approval to the above-mentioned appointment was given vide different letters from the Agriculture Department.



5. It is the case of the petitioners that they continued to work on the said post and were getting the pay scale of Rs.6500-10500/- and the same was communicated to the Accountant General, Bihar, Patna. All of a sudden, vide letter no.879 dated 16.02.2010, issued from the Agriculture Department, addressed to the Accountant General, Bihar, a new clause was introduced, which was different from the earlier Government order dated 29.03.2006 and other subsequent letters of the Government. By the letter dated 16.02.2010, which was contrary to the earlier letters and contained the pay scale with fixed pay for various posts under ATMA, including the post of Deputy Project Director, against which post the petitioners were appointed. For the post of Deputy Project Director, the pay scale of Rs.9300-34800/- (Rs.4200-18,000/-) was mentioned.

6. It is further case of the petitioners that the scale of Rs.9300-34800/- is the replacement scale of Rs.6500-10500/- in the 6th pay revision, however the same has been shown as Rs.18000/- in Appendix (I) as the fixed salary, which a person holding the post of Deputy Project Director under the ATMA will be entitled to, though it is not mentioned in clear terms in the said letter dated 16.02.2010. In Clause 15 of the said letter dated 16.02.2010, it was mentioned that persons working against the sanctioned post under



the ATMA shall not be entitled for any allowance, except the travel allowance and they will be entitled for the pay scale/fixed salary only, however, for the persons on deputation from the State Government, on the same post under ATMA, it was provided that they would be entitled for salary and allowances as applicable in the case of similar State Government employees. It is further case of the petitioners that for discharging same functions and duties, two standards have been fixed by the State Government, for the persons holding the same post, one having been appointed on deputation basis and others through direct recruitment. The petitioners case is that the petitioners have the requisite qualification for the post of Deputy Project Director, have lost the age for any government services, since they are working in ATMA and they were getting the scale of Rs.6500-10500/- and its replacement scale Rs.9300-34800/- in the 6th pay revision, which has been implemented by the State Government, however they have been shown to be getting Rs.18000/- for the post of Deputy Project Director under ATMA. Being aggrieved with the said pay fixation done by the State authorities, the petitioners filed C.W.J.C. No.10107 of 2010. As soon as the State respondents received notice with regard to filing of the said writ petition, a letter contained in Memo No.5060 dated 25.08.2010 was issued, whereby some new conditions have been



prescribed, which are contrary to the earlier notifications of the Government. One of the said conditions is Clause-6, which lays down that the appointment/posting on the post of Deputy Project Director cannot be for more than 5 years, whereas, as per earlier notification and the bye-laws of ATMA, the same does not provide any such tenure. Even in the advertisement for appointment and letter dated 24.07.2006, 28.08.2007 and 14.08.2008, it was clearly mentioned that persons appointed as Deputy Project Director shall continue to hold the post. The petitioners preferred IA No.880 of 2010, in C.W.J.C. No.10107 of 2010, whereby they assailed the order dated 25.08.2010. Subsequently, the respondents again issued a letter contained in Memo No.1016 dated 11.08.2011, by which District Magistrate-Cum-Chairman, ATMA, Patna/Gaya were directed to make necessary correction and to issue consequential orders with regard to pay scale of the petitioners. The petitioners again assailed the same by filing an interlocutory application bearing I.A. No.1846 of 2011 in C.W.J.C. No.10107 of 2010. Vide order dated 29.03.2011 passed by an Hon'ble Single Judge, the letters dated 25.08.2010 and 11.02.2011 were stayed. Finally, the writ petition bearing C.W.J.C. No.10107 of 2010 was heard by an Hon'ble Single Judge of this Court and vide order dated 17.11.2011, the writ petition was disposed of by observing that the issue appears



to be purely administrative, to be resolved by the Union of India and the State Government by across the table discussions and the interpretation of their respective documents to be appreciated by each other. The matter was therefore referred to the Central Government in the concerned department of Agriculture to decide this issue in consultation with the State Government. A reasoned and speaking order was directed to be jointly passed by the competent authorities of the Central Government and the State Government, within a maximum period of two months from the date of receipt/production of a copy. Pursuant thereto, the petitioners filed their representation before the competent authority, along with a copy of the order dated 17.11.2011 passed in C.W.J.C. No.10107 of 2010. In compliance of the order passed by this Hon'ble Court, the matter was considered by the competent authority of the Union of India and the State of Bihar and as directed by this Hon'ble Court, a joint order was passed by the Joint Secretary (Extension), Government of India, Department of Agriculture & Cooperation and the Secretary, Department of Agriculture, Government of Bihar, Patna, whereby it was recorded that as per their own bye-laws, the ATMAs in the State of Bihar are required to implement the directions of the State Government. The Government order in the present case is consistent with the



guidelines of the scheme and policy of the State Government. The claim of the petitioners for running scale as a matter of right was dismissed. Moreover, higher emoluments within the above-mentioned ceiling can be considered only by the competent authority in the State Government. In view of the joint decision taken by the State Government and the Union of India on 20.03.2012, vide letter no.1794 dated 30.09.2012, issued under the signature of the Secretary-Cum-State Nodal Officer, ATMA, Bihar, Patna, a remuneration of Rs.21000/- was fixed for the Deputy Project Directors of ATMA and it was further recorded that if any payment has been made in terms of the pay scale fixed and excess payment has been made, steps be taken for recovery of the said amount.

7. It is further case of the petitioners that the Department of Agriculture and Cooperation, Government of India issued a new circular vide letter dated 16.04.2010, addressed to all the Agriculture Production Commissioners of different States, containing revised ATMA schemes during 11th five year plan. In the said scheme, the scale of Rs.15600-39100+5400/- has been assigned for the post of Deputy Project Director and in such circumstances, the decision of the Government for payment of fixed remuneration of Rs.18000/- is irrational and illegal. It is further case



of the petitioners that the program was extended by the Central Government till 2013 and the Central Government agreed to share 90% of the burden for the post of Deputy Project Director, therefore the State Government also does not say that the fixed scale of Rs.21000/- is to be paid to these petitioners, after reducing the present emoluments.

SUBMISSION ON BEHALF OF THE PETITIONERS

8. The learned counsel for the petitioners submits that the petitioners were initially appointed on the post of Deputy Project Director in the pay scale of Rs.6500-200-10500/- on the basis of an advertisement and selection, along with grade pay, dearness allowance, house rent and medical allowance. He submits that pursuant to the order dated 17.11.2011 passed in C.W.J.C. No.10107 of 2010, the respondent authorities passed order on 21.03.2012, whereby the petitioners have been directed to be paid a fixed remuneration of Rs.21000/-, which is in complete violation of the earlier stands of the Respondents and it is also contrary to the pay scale fixed in the advertisement. He submits that the respondents are continuously changing their stand at regular interval, since in view of the letter dated 01.10.2010, the petitioners were getting the salary and revised salary as per the conditions laid down in their appointment letter and it is not in dispute that the



petitioners continuously worked on the post of Deputy Project Director since 2006-2007 till 14.09.2018. Suddenly vide letter dated 14.09.2018, without any notice to the petitioners and without giving any opportunity to the petitioners, a fixed scale of Rs.45090/-, along with those Deputy Project Directors, who were appointed in the scale of Rs.23100/- in the year 2012-13, in terms of advertisement dated 25.08.2010, has been given, although the petitioners were appointed in 2006-2007 in the pay scale of Rs.6500-10500/-.

9. The learned counsel for the petitioners further submits that the petitioners have assailed the letter dated 14.09.2018, by filing an interlocutory application bearing I.A. No.01 of 2026. He submits that the rationale behind challenging the order dated 14.09.2018 in the year 2026 is that the petitioners had filed C.W.J.C. No.2454 of 2018 on 29.01.2018, whereby they have assailed the rule framed by the Agriculture Department, Government of Bihar dated 14.10.2014. In the said writ petition, a counter affidavit was filed on behalf of the State respondents, wherein it was stated that the petitioners and others similarly situated persons will be continued till the age of 60 years/age of superannuation, as decided by the State Government for such contractual employees. They shall not be entitled to claim for any seniority or roster or any parity with the regular appointees in



future. In view of the stand of the State Government in the counter affidavit, the Hon'ble Division Bench disposed of the writ petition by holding that in view of the same, we find the grievances of the petitioners to have been sufficiently redressed and as such, there being no surviving grievance, the petition is disposed of accepting the statement made by the Government on record to be part of the order. He submits that since the State Government accepted that the petitioners will be entitled to be in service till the age of 60 years on the same post and status, thus the status of the petitioners was as appointed in the pay scale, which they were getting from the date of their appointment, therefore, they are entitled for the pay scale, the revised pay scale and its arrears. He further submits that the respondent authorities cannot refuse the salary of the petitioners after taking work from them for more than a decade in a fixed pay scale and the same cannot be fixed as a consolidated amount, along with other persons, who were appointed initially in the fixed scale, much lesser to the petitioners and their salary cannot be reduced, which will be a stigma on the petitioners.

10. The learned counsel for the petitioners next submits that the petitioners are working against sanctioned and vacant post of the Deputy Project Director, therefore they are entitled for regular pay scale in view of the judgment of the Hon'ble Supreme



Court of India in the case of Ram Naresh Prajapati and Ors. versus State of Madhya Pradesh &Ors., which has been considered in a case reported in **2025 INSC 136 (Rakesh Kumar Charmakar & Ors. versus the State of Madhya Pradesh &Ors.)**, wherein in paragraph nos.15 & 16 it has been held as follows:-

“**15.** Additionally, the Circular dated 7.10.2016 extended the benefit of regular pay scale to daily wagers. It would be unjust, unfair and arbitrary if such benefit is not extended to the appellants who were appointed as temporary employees against vacant and sanctioned posts. Even if the State denies the benefit of regular pay scale after completing three years, the appellants shall be benefitted from this Circular dated 7.10.2016 as they were appointed initially as daily wagers at the Collector's rate.

16. The appellants herein have been fighting this battle for regular pay scale since 2016. They have extended their service to the State for substantial years. But more importantly they have proven that their situation is covered under the State issued Circular and Rules. Thus, it confers upon them a legal right to avail regular pay scale.”

11. The learned counsel for the petitioners further submits that the case of the petitioners is covered by the judgment of the Hon'ble Supreme Court of India reported in **2025 SCC Online SC 221 (Shripal & Anr. versus Nagar Nigam, Ghaziabad)**, wherein in paragraph nos.13, 14 & 15, it has been held as follows:-

“**13.** By requiring the same tasks (planting, pruning, general upkeep) from the Appellant Workmen as from



regular Gardeners but still compensating them inadequately and inconsistently the Respondent Employer has effectively engaged in an unfair labour practice. The principle of “equal pay for equal work,” repeatedly emphasized by this Court, cannot be casually disregarded when workers have served for extended periods in roles resembling those of permanent employees. Long-standing assignments under the Employer's direct supervision belie any notion that these were mere short-term casual engagements.

14.The Respondent Employer places reliance on Umadevi (supra) to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, Uma Devi itself distinguishes between appointments that are “illegal” and those that are “irregular,” the latter being eligible for regularization if they meet certain conditions. More importantly, Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment. Given the record which shows no true contractor-based arrangement and a consistent need for permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices.

15. It is manifest that the Appellant Workmen continuously rendered their services over several years, sometimes spanning more than a decade. Even if certain muster rolls were not produced in full, the Employer's failure to furnish such records despite directions to do so allows an adverse inference under well-established labour jurisprudence. Indian labour



law strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature. Morally and legally, workers who fulfil ongoing municipal requirements year after year cannot be dismissed summarily as dispensable, particularly in the absence of a genuine contractor agreement. At this juncture, it would be appropriate to recall the broader critique of indefinite “temporary” employment practices as done by a recent judgment of this court in Jaggo v. Union of India in the following paragraphs:

12. The learned counsel for the petitioners submits that the case of the petitioners further finds favour from a judgment of the Hon’ble Supreme Court of India reported in 2026 SCC Online SC 129 (Bhola Nath versus The State of Jharkhand & Ors.), wherein in paragraph nos.13 to 15, it has been held as follows:-

“13. Another facet requiring consideration in the case of contractual employees, such as the present appellants, is the doctrine of legitimate expectation. Where employees have continued to discharge their duties on contractual posts for a considerable length of time, as in the present case, it is but natural that a legitimate expectation arises that the State would, at some stage, recognize their long and continuous service. It is in this belief, bolstered by repeated extensions granted by the Executive, that such employees continue in service and refrain from seeking alternative employment, notwithstanding the contractual nature of



their engagement. At this juncture, it is thus apposite to advert to the principles governing the doctrine of legitimate expectation as enunciated by this Court in Army Welfare Education Society v. Sunil Kumar Sharma, wherein it was held as follows: -

“63. A reading of the aforesaid decisions brings forth the following features regarding the doctrine of legitimate expectation:

63.1. First, legitimate expectation must be based on a right as opposed to a mere hope, wish or anticipation;

63.2. Secondly, legitimate expectation must arise either from an express or implied promise; or a consistent past practice or custom followed by an authority in its dealings;

63.5. Fifthly, legitimate expectation operates in the realm of public law, that is, a plea of legitimate action can be taken only when a public authority breaches a promise or deviates from a consistent past practice, without any reasonable basis.

64. The aforesaid features, although not exhaustive in nature, are sufficient to help us in deciding the applicability of the doctrine of legitimate expectation to the facts of the case at hand. It is clear that legitimate expectation, jurisprudentially, was a device created in order to maintain a check on arbitrariness in State action. It does not extend to and cannot govern the operation of contracts between private



parties, wherein the doctrine of promissory estoppel holds the field.” (emphasis laid)

It is, therefore, not difficult to comprehend the expectation with which such contractual employees continue in the service of the State. The repeated conduct of the employer-State in expressing confidence in their performance and consistently granting monetary upgrades & tenure extensions reasonably nurtures an expectation that their long and continuous service would receive further recognition.

13.1. Another Constitution Bench in State of Karnataka v. Umadevi, cautioned that the doctrine of legitimate expectation cannot ordinarily be extended to persons whose appointments are temporary, casual or contractual in nature. The relevant extract of the judgment reads as follows: -

“47. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in cases concerned, in consultation with the Public



Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post.”

(emphasis laid)

However, this Court in *Umadevi (supra)* clarified that the bar against invocation of the doctrine of legitimate expectation applies only to those temporary, contractual or casual employees whose engagement was not preceded by a proper selection process in accordance with the extant rules. Consequently, where such engagement is made after following a due and lawful selection procedure, there is no absolute bar in law preventing such employees from invoking the doctrine of legitimate expectation.

Limits on Perpetual Contractual Engagements:

13.2. In the present case, the respondent-State had engaged the services of the appellants on sanctioned posts since the year 2012. It was only towards the end of the year 2022 that the respondents communicated that



no further extension of the appellants' engagement was likely to be granted.

13.3. In our considered opinion, the aforesaid action is not only vitiated by arbitrariness but is also in clear derogation of the equality principles enshrined in Article 14 of the Constitution. The respondent-State initially engaged the appellants in their youth to discharge public duties and functions. Having rendered long and dedicated service, the appellants cannot now be left to fend for themselves, particularly when the employment opportunities that may have been available to them a decade ago are no longer accessible owing to age constraints.

13.4. We are unable to discern any rational basis for the respondent-State's decision to discontinue the appellants after nearly ten years of continuous service. We are conscious that the symbiotic-relationship between the appellants and the respondent-State was mutually beneficial, the State derived the advantage of the appellants' experience and institutional familiarity, while the appellants remained in public service. In such circumstances, any departure from a long-standing practice of renewal, particularly one that frustrates the legitimate expectation of the employees, ought to be supported by cogent reasons recorded in a speaking order.

13.5. Such a decision must necessarily be a conscious and reasoned one. An employee



who has satisfactorily discharged his duties over several years and has been granted repeated extensions cannot, overnight, be treated as surplus or undesirable. We are unable to accept the justification advanced by the respondents as the obligation of the State, as a model employer, extends to fair treatment of its employees irrespective of whether their engagement is contractual or regular.

13.6. *This Court has, on several occasions, deprecated the practice adopted by States of engaging employees under the nominal labels of “part-time”, “contractual” or “temporary” in perpetuity and thereby exploiting them by not regularizing their positions. In Jaggo v. Union of India, this Court underscored that government-departments must lead by example in ensuring fair and stable employment, and evolved the test of examining whether the duties performed by such temporary employees are integral to the day-to-day functioning of the organization.*

13.7. *In Shripal v. Nagar Nigam and Vinod Kumar v. Union of India, this Court cautioned against a mechanical and blind reliance on Umadevi (supra) to deny regularization to temporary employees in the absence of statutory rules. It was held that Umadevi (supra) cannot be employed as a shield to legitimize exploitative engagements continued for years without undertaking*



regular recruitment. The Court further clarified that Umadevi itself draws a distinction between appointments that are “illegal” and those that are merely “irregular”, the latter being amenable to regularization upon fulfilment of the prescribed conditions.

13.8. *In Dharam Singh v. State of U.P., this Court strongly deprecated the culture of “ad-hocism” adopted by States in their capacity as employers. The Court criticized the practice of outsourcing or informalizing recruitment as a means to evade regular employment obligations, observing that such measures perpetuate precarious working conditions while circumventing fair and lawful engagement practices.*

13.9. *The State must remain conscious that part-time employees, such as the appellants, constitute an integral part of the edifice upon which the machinery of the State continues to function. They are not merely ancillary to the system, but form essential components thereof. The equality mandate of our Constitution, therefore, requires that their service be reciprocated in a manner free from arbitrariness, ensuring that decisions of the State affecting the careers and livelihood of such part-time and contractual employees are guided by fairness and reason.*

13.10. *In the aforesaid backdrop, we are unable to persuade ourselves to accept the respondent-State’s contention that the mere*



contractual nomenclature of the appellants' engagement denudes them of constitutional protection. The State, having availed of the appellants' services on sanctioned posts for over a decade pursuant to a due process of selection and having consistently acknowledged their satisfactory performance, cannot, in the absence of cogent reasons or a speaking decision, abruptly discontinue such engagement by taking refuge behind formal contractual clauses. Such action is manifestly arbitrary, inconsistent with the obligation of the State to act as a model employer, and fails to withstand scrutiny under Article 14 of the Constitution.

FINAL CONCLUSION:

14. In light of our discussion, in the foregoing paragraphs, we summarize our conclusions as follows:

I. The respondent State was not justified in continuing the appellants on sanctioned vacant posts for over a decade under the nomenclature of contractual engagement and thereafter denying them consideration for regularization.

II. Abrupt discontinuance of such long-standing engagement solely on the basis of contractual nomenclature, without either recording cogent reasons or passing a speaking order, is manifestly arbitrary and violative of Article 14 of the Constitution.



III. Contractual stipulations purporting to bar claims for regularization cannot override constitutional guarantees. Acceptance of contractual terms does not amount to waiver of fundamental rights, and contractual stipulations cannot immunize arbitrary State action from constitutional scrutiny.

IV. The State, as a model employer, cannot rely on contractual labels or mechanical application of Umadevi (supra) to justify prolonged ad-hocism or to discard long-serving employees in a manner inconsistent with fairness, dignity and constitutional governance.

V. In view of the foregoing discussion, we direct the respondent-State to forthwith regularize the services of all the appellants against the sanctioned posts to which they were initially appointed. The appellants shall be entitled to all consequential service benefits accruing from the date of this judgment.

15. Accordingly, the present appeals are disposed of and all writ petitions are allowed and the judgments dated 17th September, 2024, 15th October, 2024 and 2nd December, 2024, in LPA Nos.390 of 2024, 356 of 2024 and 368 of 2024, respectively, passed by the High Court of Jharkhand at Ranchi are set aside.”

13. The learned counsel for the petitioners lastly submits that in view of the submissions made above and in view of the



judgments of the Hon'ble Supreme Court of India, the relief sought for in the present writ petition is fit to be granted and the Interlocutory application needs to be allowed for granting the reliefs to the petitioners.

SUBMISSION ON BEHALF OF THE RESPONDENT STATE

14. Per contra, the learned counsel for the State submits that an advertisement was issued on 01.06.2006 for different posts. It was clearly stipulated that appointment on the post of Project Director as well as Deputy Project Director will be made on contractual basis on a fixed salary and it was mentioned that the admissible T.A. shall be allowed as per the rules of the project. The petitioners, after going through the advertisement, submitted their application form and were selected. Appointment letters were issued in their favour, with a clear stipulation that their appointments are contractual/deputation and the same was on a fixed salary. He submits that there are altogether 20-25 several types of schemes of the Agriculture Department, out of which, one scheme is ATMA. The scheme has been extended from time to time and as such, the appointment on contractual basis on the scheme are co-terminus with the scheme. If the scheme comes to an end, the person appointed under the said scheme on contractual basis are liable to be terminated and his engagement automatically comes to



an end. As per the modality of the appointment, the nature of service, salary and other allowance are decided by the State Government (State Cabinet). The Agriculture Department took a decision to grant fixed salary of Rs.18000/- to the Deputy Project Directors working on contractual basis, in light of the decision of the State Government. The petitioners are getting fixed salary on contractual basis since their date of appointment. Now after having worked for almost five years, they are demanding for pay scale, which appears to be absolutely misconceived. In the State Government, several appointments have been made on different posts on fixed salary, therefore if the very nature of appointment is different from the permanent appointment, the demand of the petitioners has no legal basis to stand and in a contractual appointment, the incumbent has to furnish an agreement paper to the employer, stating therein that they are ready and willing to accept all terms and conditions of the appointment.

15. The learned counsel for the State further submits that so far, the permanent Government employees posted as Deputy Project Director or Project Director on deputation basis are concerned, they are entitled to be granted the pay scale like the Government employees and the contractual employees cannot be equated with the regular employees. Earlier the petitioners had filed



C.W.J.C. No.10107 of 2010 and the matter was finally disposed of vide order dated 17.11.2011, with a direction to the Union of India and the State Government to take a decision. In compliance thereof, a decision was taken at the level of the Union of India and the State Government jointly. He submits that from perusal of the order dated 21.03.2012, it would transpire that the petitioners are working on the post of Deputy Project Director in ATMA and are not the regular employees of the State Government. He submits that as per Annexures-III (b) of the Guidelines, the number of posts, mode of recruitment, pay scale, remuneration, qualification and experience has been given. As per the guidelines of the Government, the scheme enumerates that all posts, including the post of Deputy Project Director will be filled by Deputation/appointment for the scheme period or such other mode, as the State Government may deem it fit. In terms thereof, the State Government decided to fill up the vacancies on contractual basis on a fixed remuneration and the total remuneration to the gross emoluments at the minimum scale, till the time, these vacancies are filled by using any other method indicated. In view of the said facts, the petitioners have been appointed.

16. A supplementary counter affidavit has been filed on behalf of the State respondents, wherein it has been stated that



ATMA scheme is a Centrally Sponsored scheme, under which policy guidelines are issued by the Central Government, whereas its implementation, engagement of manpower and payment of remuneration fall within the domain of the State Government. Union of India has clarified that the scheme contemplates contractual engagement on fixed remuneration and as such, persons are not holders of the regular civil post and are not entitled to the pay scale, applicable to the State Government employees. He submits that the petitioners were engaged under a scheme based, non-cadre and contractual arrangement, which does not confer any enforceable right, to claim regular pay scale or parity with regularly appointed Government servants. The petitioners were engaged on contractual basis for the project period and not against any sanctioned cadre post. The State Government in exercise of its administrative power, issued a communication dated 25.08.2010 modifying the tenure and converting remuneration into fixed emoluments consistent with the contractual nature of engagement. The said communication was assailed before this Hon'ble Court and finally, on the directions of this Hon'ble Court, a reasoned order has been passed on 21.03.2012. He submits that during pendency of the proceeding, this Hon'ble Court vide order dated 15.05.2012 restrained any coercive recovery, but did not stay the



operation of the policy decision itself. He next submits that since 30.03.2012, the petitioners are receiving fixed honorarium and as such remuneration has been revised from time to time in accordance with applicable scheme guidelines. The Principal Secretary, Agriculture Department vide letter dated 06.11.2018 clarified the position regarding fixed remuneration and extension under the scheme. Vide communication dated 14.09.2018, uniform fixed remuneration was prescribed for Deputy Project Directors under ATMA Scheme, in order to maintain consistency and parity among contractual personnel. He submits that the State Government notified the Bihar Agriculture Service Rules, 2014 whereby for the first time, the post of Deputy Project Director under ATMA was included in the cadre and prior to the said Rules, the post of Deputy Project Director was not part of any regular cadre under the State Government. A requisition was sent to the Bihar Public Service Commission for regular appointment vide Advertisement No.86 of 2014.

17. The learned counsel for the State further submits that one of the petitioners has been selected and appointed on regular basis, pursuant to the said advertisement, which demonstrate that regular appointment is only through prescribed recruitment procedure. The remaining petitioners continue to work under



contractual arrangement and are being paid remuneration, as applicable under the scheme. He submits that some of the petitioners assailed the cadre Rules, 2014 and the recruitment process by filing C.W.J.C. No.2454 of 2018. Vide order dated 27.03.2018, this Hon'ble Court directed the recruitment process may continue, but final result shall not be published without leave of the Court. Subsequently, the Cadre Rules were amended on 25.11.2020 and vide order dated 06.10.2021, this Hon'ble Court permitted continuation of the petitioners till superannuation, which have been duly complied with by the State respondents, therefore the writ petition was disposed of vide order dated 11.01.2022 by recording the statement made by the State-respondents with regard to continuation of the petitioners till they attain the age of superannuation on completion of 60 years. Some of the petitioners again participated in subsequent recruitment process, pursuant to the Advertisement No.18 of 2024, however they were not declared successful, thereafter they challenged the result in C.W.J.C. No.9413 of 2024, which was disposed of vide order dated 19.07.2024 with certain directions. Some of the petitioners thereafter filed M.J.C. No.2949 of 2024, however the said contempt petition was finally disposed of vide order dated 04.04.2025, with a liberty to avail appropriate remedy available under law. Fresh writ



petitions have been filed by the petitioners bearing C.W.J.C. No.15154 of 2025 and C.W.J.C. No.15980 of 2025. The said writ petitions are pending for adjudication before this Hon'ble Court.

18. The learned counsel for the State finally submits that it is well settled that contractual or scheme based engagement does not any confer any right of regular appointment/pay scale applicable to the cadre post and parity with regular Government servants. He submits that the petitioners having accepted the engagement under a scheme on contractual terms, cannot claim continuation of any earlier order of remuneration, contrary to the policy decision taken in the public interest.

C.W.J.C. No. 832 of 2019

19. The present writ petition has been filed for the following reliefs:-

- I. *To issue a writ in the nature of certiorari for quashing of the reasoned order dated 01.10.2018 passed by the Respondent No. 2 communicated through the letter dated 01.10.2018 bearing Memo No. 3574 (Annexure P/10) and the consequential office order dated 06.10.2018 bearing office order No. 11 passed by the Respondent No. 5 communicated through letter dated 06.10.2018 bearing Memo No. 353 (Annexure P/11), by which the pay scale of the petitioner was reduced from the pay*



scale of Rs. 9,300-34,800/- to a tune of Rs. 16,105 per month without considering the duty of State pertaining to Welfare State against the norms of service jurisprudence.

- II. *To issue a writ in the nature of certiorari for quashing of the reasoned order dated 01.10.2018 passed by the Respondent No. 2 communicated through the letter dated 01.10.2018 bearing Memo No. 3574 (Annexure P/10), by which the Respondent No. 2 by referring the letters dated 29.03.2006 bearing Govt. Order No. 1048, letter dated 18.05.2007 bearing Govt. Order No. 2033, letter dated 15.10.2007 bearing Govt. Order No. 5112, letter dated 14.08.2008 bearing Govt. Order No. 5892, letter dated 27.08.2012 bearing Govt. Order No. 4442, letter dated 15.10.2014 bearing Govt. Order No. 4542, letter dated 06.08.2015 bearing Govt. Order No. 3931, letter dated 27.01.2017 bearing Govt. Order No. 331, letter dated 04.11.2017 bearing Govt. Order No. 4281, order passed in C.W.J.C. No. 10107 of 2010 related to the Dy. Project Directors, order dated 15.05.2012 passed in C.W.J.C. No. 9687 of 2012 and order dated 02.11.2017 passed in C.W.J.C. No. 18095 of 2011, passed the reasoned order by observing "अतः उपरोक्त तथ्यों के आलोक में समादेश याचिका संख्या 18095/2011 में दिनांक 02.11.2017 को माननीय उच्च न्यायालय द्वारा पारित आदेश के आलोक में श्री कौशल किशोर एवं अन्य द्वारा दायर अभ्या*



वेदनपरवेतनमानकेअनुरूपभुगतानकरनेसेसंबंधित
अनुरोधकोअस्वीकृतकरतेहुएनियतवेतन /
मानदेयजोराज्यसरकारद्वारानिर्गतविभिन्नराज्यादे
शोंमेंअंकितहै,
केअनुसारभुगतानकरनेकीस्वीकृतिदीजातीहै।
जिनलेखापालोंकेद्वारावेतनमानकेअनुरूपवेतनादि
काभुगतानप्राप्तकियाहै,
उन्हेंभीइसआदेशकेनिर्गतकीतिथिसेराज्यसरकारद्व
ारानिर्गतविभिन्नराज्यादेशोंमेंअंकितनियतवेत
न/मानदेयभुगतानकरनेकाआदेशदियाजाताहै।
जहाँतकपूर्वमेंभुगतानकीगईराशिकीवसूलीकासंब
ंधहै, समादेशयाचिकासंख्या 9687/2012
मेंमाननीयउच्चन्यायालयद्वारापारितआदेशकेआ
लोकमेंस्थगितरहेगी।

इसतार्किकआदेशकीप्रतिसभीसंबंधितकोआवश्य
ककार्रवाईहेतुअविलम्बभेजदियाजाए।”

III. *To issue a writ in the nature of certiorari for quashing of the office order dated 06.10.2018 bearing office order No. 11 passed by the Respondent No. 5 communicated through letter dated 06.10.2018 bearing Memo No. 353 (Annexure P/11), as the same was issued in compliance to the order dated 01.10.2018 bearing Memo No. 3574 (Annexure P/10), by which the Respondent No. 5 issued the letter, resulting thereof the petitioner, who was getting salary in the pay scale of Rs. 9,300-34,800/- (Grade Pay Rs. 4,200/-) was reduced and the pay scale of the petitioner was reverted/converted into fixed*



remuneration of Rs. 16,105/ with effect from October, 2018.

IV. To stay the operational effect of the letter dated 01.10.2018 bearing Memo No. 3574 (Annexure -P/10) and the office order dated 06.10.2018 bearing Memo No. 353 (Annexure -P/11), as the same are per-se illegal, unauthorized and without jurisdiction, because the salary of the petitioner was revised as per the norms, accorded by the Respondent No. 6 with the concurrence of the State Govt. and the pay fixation of the petitioner was made after adopting due process of law and due procedure of law, hence the operation effect of the letter dated 01.10.2018 bearing Memo No. 3574 (Annexure P/10) and the office order dated 06.10.2018 bearing Memo No. 353 (Annexure -P/11) be stayed till the disposal of instant writ application.

20. An interlocutory application bearing I.A. No.01 of 2026 has been filed, wherein some additional prayers have been made in paragraph no.1 therein, which is being reproduced hereinbelow:-

V. That the instant Interlocutory application has been filed for making amendment in relief portion Para-1 of the main writ petition by way of further relief 1(v) "For issuance of further direction upon the Respondents concerned to pay the full salary to the petitioner since 31.07.2020 to



29.06.2022 with interest during which petitioner was kept out of service and subsequently taken in service admitting its own fault for which petitioner can not said responsible.

BRIEF FACTS

21. The brief facts, which are necessary for adjudication of the present writ petition, are that an advertisement was issued by the Agriculture Technology Management Agency (ATMA), Muzaffarpur on 15.06.2008. The vacancies, which were advertised, were for the post of Accountant-01, Stenographer-01 and Computer Operator-Cum-Clerk-01. The pay scale/fixed pay for the post of Accountant was mentioned as Rs.4000-6000/- for the post of Accountant. The petitioner being eligible, submitted his application form for the post of Accountant. He was selected and an appointment letter contained in Memo No.588 dated 19.09.2009 was issued under the signature of the DistrictMagistrate-Cum-Chairman, ATMA, Muzaffarpur. Pursuant thereto, an agreement was executed in between the petitioner and the recruiting agency i.e. ATMA on 25.09.2009, wherein in clause 6 it was mentioned that during continuance of service the petitioner would be payed remuneration a sum of Rs.4000-6000/- per month. Clause 7 of the agreement mentioned that that the petitioner will be on probation initially for three months, which can be extended further at the



discretion of ATMA. During probation period he shall be paid a consolidated remuneration of Rs.4000-6000/- per month.

22. It is the case of the petitioner that vide letter no.879 dated 16.02.2010, issued by the Joint Secretary to the Government, Department of Agriculture, Government of Bihar, it has been admitted that earlier the Union of India used to provide funds, in order to support the State Extension Program for Extension Reforms in Agriculture Sector. In the said letter, it was clarified that 4 posts of Accountant, Stenographer, Computer-Operator and Peon shall be engaged for Centrally Sponsored Schemes and the pay scale for the Accountant was notified in the scale of Rs.5200-20200/- with grade pay of Rs.2400/- and the basic pay was fixed at Rs.8000/-. Subsequently, another notification was issued on 25.08.2010, whereby the pay scale of the Accountant was mentioned as Rs.5200-20200/- with grade pay of Rs.2400/- and in the second category, the procedure incorporated in the scheme of the Government of India was mentioned, wherein Rs.9300-34800/- with grade pay of Rs.4200/- and the basic pay of Rs.10000/- was mentioned. In the 3rd category, the present sanctioned post was mentioned, wherein the pay scale was mentioned as Rs.9300-34800/- with grade pay of Rs.4200/- and the basic pay of Rs.10,000/- was mentioned. Again, letter bearing letter No.2394 dated



22.04.2010 was issued, wherein it was mentioned that in view of the Government order no.879 dated 16.02.2010, the employees appointed under the aforesaid Government order will be provided, prescribed pay and prescribed consolidated pay. In contemplation of the said letter dated 22.04.2010, the respondent no.5 vide letter no.211 dated 07.06.2010 informed the respondent no.7 that on the post advertised for Accountant in the pay scale of Rs.4000-100-6000/- the petitioner is working since 19.09.2009 and a clear guideline was asked for, from the respondent no.7. Vide letter No.F.No.-27-4/2016-A.E/Extn./Desk dated 08.04.2016 issued under the signature of the Director, Bihar Agriculture Management Training Institute, Bihar, Patna the administrative approval for implementation of Support to State Extension Program for Extension Reforms (ATMA) component of Centrally Sponsored Scheme "Submission of Agriculture Extension (SAME)" of National Mission on Agriculture Extension and Technology (NMAET) during the financial year 2016-17 was issued. In the said letter, it was clearly stipulated that the funding of the scheme shall be in the ratio of 60:40 (Central: State) for the general State and 90:10 (Central: State) for the North Eastern State and three Himalayan States (Jammu & Kashmir, Himachal Pradesh and Uttarakhand) for all components, except Farmer Friend, for which it



will be on 50:50 basis. A Writ Petition bearing C.W.J.C. No.18095 of 2011 and M.J.C. No.5028 of 2012 was preferred before this Hon'ble Court for different prayers. The writ petition and the contempt petition were finally disposed of vide order dated 02.11.2017, with a direction to the District Magistrate-Cum-Chairman, ATMA, Muzaffarpur with an observation that "in the above view of the matter, the writ petition is disposed of granting liberty to the petitioners to file a fresh representation before the Principal Secretary, Department of Agriculture, Government of Bihar, Patna within a period of two weeks from today. If any such representation is filed within the stipulated period, the same shall be considered and disposed of on its own merits in accordance with law and in the background of the guidelines of the Ministry of Agriculture, Government of India, expeditiously and preferably within a period of four months from the date of receipt/production of a copy of this judgment and after granting opportunity to the petitioners." The matter was placed before the Principal Secretary, Department of Agriculture, Government of Bihar and in compliance of order dated 02.11.2017 passed by this Hon'ble Court, the respondent no.2 in complete departure of the Government's earlier letters dated 16.02.2010, 25.08.2010, 22.04.2010 and 07.06.2010, passed a reasoned order on 01.10.2018, which was communicated



through letter contained in Memo No. 3574, whereby the claim of salary/pay scale was rejected and it was directed that a fixed pay/remuneration will be payable and so far the excess amount paid, if any, the same will be stayed in view of the order passed by this Hon'ble Court in C.W.J.C. No.9687 of 2012. Consequential order was issued on 06.10.2018 by the Project Director, ATMA, Muzaffarpur.

23. It is further case of the petitioner that a letter was sent by the Project Director, ATMA, Muzaffarpur to the Director, Bihar Agriculture Management Training Institute, Patna on 04.07.2018, whereby a list to employees serving under the district level and block level was sent. From perusal thereof, it would transpire that the post of Accountant is under the sanctioned strength. The petitioner filed a representation before the Project Director, ATMA, Muzaffarpur on 20.10.2018, wherein he specifically pointed out that the salary in the pay scale of Rs.9300-34000/- with grade pay of Rs.4200/- to the tune of Rs.54344/- was paid to the petitioner till September, 2018, therefore, the order for payment of Rs.16105/- per month towards salary is neither justified nor legal and he requested for payment of salary, which was paid to him till September, 2018.



SUBMISSION ON BEHALF OF THE PETITIONER

24. The learned counsel for the petitioner submits that the petitioner is discharging his duties under the Centrally Sponsored Scheme and the same is being executed by the State Government. The petitioner was appointed by the competent authority and was getting salary from the funds allocated and therefore, the order impugned dated 01.10.2018 passed by the authorities of the State Government is admittedly and acceptably without any statutory sanction. He submits that the order dated 01.10.2028 and its consequential order dated 06.10.2018 are fit to be set aside, since they have been issued without any rational approach. He submits that the petitioner was appointed against vacant/sanctioned and permanent post of Accountant against the vacancy notified on 15.06.2008, after following the due process of law. After completion of the selection process, an agreement was executed in between the petitioner and the respondent no.4 herein on 25.09.2009. The pay scale of the petitioner was fixed in strict compliance of the Government letters dated 16.02.2010 and 25.08.2010. While passing the impugned order, the competent authority, in complete departure from the earlier order of the State Government dated 16.02.2012, placed reliance on the letter dated 21.03.2012, despite the fact that the letter dated 21.03.2012 bears



no significance with the case of the petitioner, since the said letter was related to the Deputy Project Directors. The respondent authorities while passing the order dated 01.10.2018 and its consequential order dated 06.10.2018, failed to appreciate that there was/is no deliberation on the part of the petitioner, rather as per the funding for the scheme, the ratio of contribution in between the Centre and the State was previously to the extent and proportion of 90:10, which has been reduced by virtue of the letter dated 08.04.2016 to the extent of 60:40. He submits that the post at the District level, namely Project Director, Accountant, Computer Operator and Steno-Cum-Typist are under the financial liability of the Central Government. Remaining posts like Peon and Chaukidar are under the financial liability of the State Government. In other words, the posts upon which, the petitioner is serving is not, in any way under the liability of the State Government.

25. The learned counsel for the petitioner next submits that from perusal of the order impugned dated 01.10.2018, it is ex-facie clear that in complete departure to the consideration by the Union of India, the respondent no.2 has passed the order impugned and in compliance of the order impugned, the consequential order dated 06.10.2018 has been issued, therefore both the orders are required to be interfered with by this Hon'ble Court. He submits



that the petitioner is further entitled for payment of salary for the period since 31.07.2020 to 29.06.2022, during which period, the petitioner was illegally made to retire, prior to completion of 65 years of age by the office order bearing Memo No.523 dated 31.07.2020 by the Project Director, ATMA, Muzaffarpur, who is not the appointing authority of the petitioner and subsequently rectifying his own mistake vide office order bearing Memo No.254 dated 29.06.2022 issued by the respondent no.5, whereby the petitioner was re-inducted in service and the petitioner was kept out of service during aforementioned interregnum period of two years and as such, he is entitled for payment of his salary.

26. The learned counsel for the petitioner further submits that the petitioner is entitled for payment of difference of salary as consequential benefit since October 2018 to 31.07.2025 i.e. the date of retirement of the petitioner, upon completion of 65 years of age, after granting the pay, in the pay scale, which the petitioner was getting prior to issuance of order dated 01.10.2018.

27. The learned counsel for the petitioner further submits that in gross violation of the principles of natural justice, the petitioner has been reverted from pay scale to a consolidated fixed emolument of Rs.16105/- per month, which amounts to snatching the accrued right since 10 years back and without rescinding the



agreement, which was executed by the petitioner, under which the petitioner was granted pay scale, since initial date of his appointment, he has been illegally reverted and since the month of October 2018, the petitioner has been forced to get a consolidated salary per month. He submits that the petitioner has never suppressed any material fact, nor misrepresented before the respondent authorities to get his appointment in a fixed pay scale, rather as per the terms of advertisement, the petitioner's post of Accountant was earmarked in the pay scale of Rs.4000-6000/-, having fixed the eligibility criteria of 8 years' experience in Accountancy in Government/Semi Government institution and as such, unilateral reversion from pay scale to a consolidated fixed monthly emoluments, which is only Rs.16105/- in place of petitioner getting monthly salary of Rs.54344/- is arbitrary and is not permissible.

28. The learned counsel for the petitioner to support his contention refers to and relies upon a judgment of the Hon'ble Supreme Court of India reported in **2025 INSC 449 (Jageshwar Sahoo versus The District Judge)**, wherein in paragraph no.9, it has been held as follows:-

“9. This Court has consistently taken the view that if the excess amount was not paid on account of any misrepresentation or fraud on the part of the employee or if such excess payment was



made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order, which is subsequently found to be erroneous, such excess payments of emoluments or allowances are not recoverable. It is held that such relief against the recovery is not because of any right of the employee but in equity, exercising judicial discretion to provide relief to the employee from the hardship that will be caused if the recovery is ordered.”

29. The learned counsel for the petitioner further refers to and relies upon a judgment of the Hon'ble Supreme Court of India reported in 2015 (4) SCC 334 (State of Punjab & Others versus Rafiq Masih), wherein in paragraph no.18, it has been held as follows:-

18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:



- (i) *Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).*
- (ii) *Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.*
- (iii) *Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
- (iv) *Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.*
- (v) *In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.*

30. The learned counsel for the petitioner lastly submits that the petitioner is entitled to get the difference of salary since October 2018 to 25.07.2025 i.e. the date of his retirement, after deducting the amount paid towards fixed emoluments and for



payment of the entire salary for the period, during which the petitioner was kept out of service, along with interest @ 9%.

SUBMISSION ON BEHAL OF THE RESPONDENTS

31. Per contra, the learned counsel for the Staterespondents submits that the Agricultural Extension scheme was initiated under the 10th Five Year Plan of the Government of India i.e. National Mission on Agricultural and Technology. It had four components and submission on Agricultural Extension was one of the four components. It is a centrally sponsored scheme and its main object was presentation and extension of new technology, new inputs and farming among the farmers. Under the said scheme, each State had to establish State Agricultural Training Institute at the State level and at the District level Agricultural Technology Management (ATMA) was constituted. Four posts were sanctioned under ATMA on contract basis. Out of which, one post was Accountant-Cum-Clerk. All the posts under ATMA were to be filled up on the basis of contractual appointment or on deputation on contract as well. For the first time, these posts were sanctioned and created in the year 2005-06 vide Government order no.1048 dated 29.03.2006. Six posts for every districts were sanctioned, out of which one post was of Accountant, for which, a pay scale of Rs.4000-6000/- was shown, but in the year2006, none of the



Accountant was appointed for the reason that the scheme was sanctioned in the end of March, 2006. Again, the scheme was sanctioned vide letter no.1174 dated 19.03.2007 for the financial year 2006-07. In the said scheme also, the pay scale of Rs.4000-6000/- was shown for the post of Accountant. This scheme was sanctioned for total 23 districts in 2007-08 vide Government letter dated 18.05.2007 and vide letter dated 15.10.2007, the ATMA scheme was sanctioned for 15 districts respectively. In both the letters, the pay scale of Rs.4000-6000/- was shown for the post of Accountant. In 2008-09, the ATMA scheme was sanctioned for all the 38 districts of the State vide Government order No.5892 dated 14.08.2008, wherein also the pay scale for the post of Accountant was Rs.4000-6000/-. In the financial year 2009-10 again, the same was sanctioned for all the 38 districts vide letter dated 16.02.2010 and for the first time, the pay scale of Rs.5200-20200/- with grade pay of Rs.2400/- was fixed and a fixed pay of Rs.8000/- was shown for the post of Accountant. The same was similarly followed for the financial year 2010-11. In the financial year 2011-12, vide Government letter dated 25.08.2011, the ATMA scheme was sanctioned for all the districts, wherein a fixed pay of Rs.10,000/- was shown for the post of Accountant. The same was enhanced to Rs.11000/- for the financial year 2012-13 and 2013-14. The same



was enhanced to Rs.12100/- for the financial year 2014-15 and for the financial year 2015-16, it was enhanced to Rs.13310/-. For the financial year 2016-17, it was again enhanced to Rs.14641/-. For the financial year 2017-18, it was enhanced to Rs.16105/-. A writ petition bearing C.W.J.C. No.10107 of 2010 was filed by the Deputy Project Director of ATMA, wherein they challenged the determination of fixed pay in place of pay scale, from the year 2009-10 for the post of Deputy Project Director and Accountant. The writ petition was disposed of vide order dated 17.11.2011 by an Hon'ble Single Judge of this Court with certain observations and directions. In compliance thereof, a joint deliberation was held between the Central Government and the State Government and a reasoned order was passed on 21.03.2012, whereby the claim of the petitioners therein for grant of pay scale in place of fixed pay was turned down and the fixed pay as earlier fixed for contractual appointees remained the same. Again, a writ petition bearing C.W.J.C. No.9687 of 2012 was filed, whereby the reasoned order dated 21.03.2012 has been assailed and by an interim order dated 15.05.2012, this Hon'ble Court stayed the recovery of excess payment made to them, but no order for grant of pay scale was passed. Till passing of the reasoned order dated 01.10.2018, the writ petition was pending. Similarly situated Accountants, including the



petitioner and others filed C.W.J.C. No.18095 of 2011, being aggrieved with the Government order no.5060 dated 25.08.2010, whereby they were allowed fixed pay of Rs.10000/- in place of pay scale and they also claimed for pay scale of Rs.9300-34800/- with grade pay of Rs.4200/-. The writ petition was disposed of vide order dated 02.11.2017, with a liberty to the petitioners to file representation before to the Principal Secretary, Department of Agriculture, Government of Bihar and in compliance thereof, after giving an opportunity to the petitioners and others, the order dated 01.10.2018 has been passed. The petitioners were appointed on the post of Accountant on contractual basis under a scheme and no circular or resolution prescribes pay scale for contractual appointee, rather they are entitled for a fixed pay. In the reasoned order dated 01.10.2018, it has been stated that the salary/emolument of contractual employees under the State of Bihar shall be governed by the resolution no.2401 dated 18.07.2007, issued by the General Administration Department and the same has been followed by the State Government in every contractual appointment.

32. The learned counsel for the State submits that once the petitioners were appointed on contractual basis, there is no question of grant of a fixed pay scale to the petitioners, since it will be in violation of the settled stand of the State Government and



every contractual employee is being paid a fixed remuneration. They cannot be given parity with regular employees inasmuch as that a salary payable to the contractual employees cannot be given to the petitioner and others, since they have been appointed on contractual basis and the stand of the petitioners that he is entitled for payment of salary in a fixed pay scale is not fit to be granted by this Hon'ble Court.

ANALYSIS/CONCLUSION

33. Having considered the rival submissions and after going through the materials available on record in both the writ petitions, it appears that the primary issue which arises for consideration is that whether the petitioners, who were appointed pursuant to an advertisement and selection process under the Agricultural Technology Management Agency (ATMA), can be denied the benefit of the pay scale, specified in the advertisement/their initial appointment letter, which has been subsequently reduced to a fixed remuneration, merely on the ground that their appointments were contractual and scheme based in nature. It further appears that the dispute in C.W.J.C. No.9687 of 2012 relates to the denial of the pay scale to the petitioners, appointed on the post of Deputy Project Director, the consequential direction for payment of fixed remuneration and the recovery of the



excess amount. Whereas the dispute in C.W.J.C. No.832 of 2019 relates to the reduction of the pay of the petitioner from the pay scale of Rs.9300-34800/- with grade pay of Rs.4200/- to a fixed remuneration of Rs.16105/- per month, together with his claim for payment of the difference of salary and the salary for the period during which he was kept out of service. Although, the respondents have consistently maintained that the appointments were contractual and coterminous with the scheme, however, the terms of the original advertisements, the appointment letters issued to the petitioners, the subsequent Government communications and the circumstances in which the remuneration of the petitioners was altered, are required to be considered in their entirety.

34. So far, C.W.J.C. No.9687 of 2012 is concerned, the materials placed on record indicate that the posts of Deputy Project Director under ATMA were created and sanctioned vide Memo No.1042 dated 29.03.2006 and the advertisement dated 01.06.2006 expressly mentioned the pay scale of Rs.6500-200-10500/- for the said post, together with T.A in accordance with rule, however it was also clearly mentioned that the same would be on contract basis and would be on fixed pay. So far, the appointment letters issued in favour of the petitioner no.1, 2, 4 & 6 are concerned, it was specifically mentioned that the appointment is being made in the



pay scale of Rs.6500-200-10500/- on contract basis and on a fixed pay. So far, the petitioners no.3 & 5 are concerned, no such clause of fixed pay was mentioned and so far, the petitioner no.7 & 8 are concerned their appointment letters are not on record. The petitioners continued to discharge their duties, even after the expiry of the initial financial year. It further transpires that the change in the remuneration structure was subsequently introduced through Government communications, including Memo No.879 dated 16.02.2010, Memo No.5060 dated 25.08.2010 and Memo No.1016 dated 11.02.2011, culminating in the joint decision communicated vide Memo No.PPM-105/2009 (Part) 1626 dated 21.03.2012, issued in terms of the directions issued by this Hon'ble Court in CWJC No.10107 of 2010, whereby the claim of the petitioners for pay scale was rejected and fixed remuneration was prescribed. The State has sought to justify the said decision on the ground that the petitioners were engaged on a contractual basis under a centrally sponsored scheme and that the determination of remuneration falls within the domain of the State Government. However, the contractual nature of an appointment, by itself, cannot be treated as conclusive of the question of remuneration, particularly where the advertisement and the appointment letters expressly specified a particular pay scale and the employees continued to render their



services against the posts, for which they were selected. The State Government undoubtedly retains the authority to formulate policies governing appointments under a scheme, but the exercise of such authority must remain consistent with the applicable guidelines, the terms governing the appointments and the constitutional requirement, that State action must not be arbitrary. In the present case, the mere description of the petitioners as contractual employees does not, by itself, sufficiently justify the denial of the remuneration which formed part of the terms on which they were initially selected and appointed.

35. The aforesaid view finds support from the judgment of the Hon'ble Supreme Court in the case of Rakesh Kumar Charmakar(Supra), wherein the Hon'ble Supreme Court considered the entitlement of temporary employees, appointed against a vacant and sanctioned posts, the benefit of the regular pay scale in the light of the applicable rules and Government circulars. The Hon'ble Supreme Court held that the mere fact that the employees were appointed on a temporary basis, did not, in the circumstances of that case, disentitle them to the benefit of the pay scale, where the relevant conditions governing their appointments and the applicable Government policy were satisfied. The judgment, while arising in the context of a specific Government policy, reinforces the principle



that the nature of the appointment cannot be considered in isolation from the terms of selection, the status of the post and the applicable service conditions. Further, in the case of Bhola Nath (Supra), the Hon'ble Supreme Court reiterated the obligation of the State, as a model employer, to ensure fairness in matters concerning employees who have been selected through a prescribed process against sanctioned posts and have continued to render services for a substantial period. The said judgment also emphasizes that contractual nomenclature cannot, by itself, insulate State action from scrutiny under Article 14 of the Constitution of India.

36. Applying the aforesaid principles to the facts of the present case, this Court is of the opinion that the respondents were required to give due consideration to the original terms of appointment of the petitioners and the applicable ATMA scheme guidelines, before replacing the specified pay scale with fixed remuneration. The joint decision contained in memo no.1626 dated 21.03.2012 issued under the joint signature of the Joint Secretary (Extension), Government of India, Department of Agri. &Coopn., Ministry of Agriculture, New Delhi and the Secretary, Department of Agriculture, Government of Bihar, Patna, insofar as it rejects the claim of the petitioners, without adequately reconciling the terms of their original appointment, with the subsequent change in the



remuneration structure, cannot be sustained. It is, however, clarified that the entitlement of the petitioners to the applicable pay scale and its revisions would have to be determined in accordance with the terms of the advertisement/their letters of appointment and the relevant Government orders. The same would not, by itself, confer upon them the status of regular cadre employees or any other service benefit, not otherwise admissible to them.

37. So far, C.W.J.C. No.832 of 2019 is concerned, it appears that the petitioner was selected for the post of Accountant, pursuant to an advertisement issued by ATMA, Muzaffarpur and an appointment letter contained in Memo No.588 dated 19.09.2009 was issued in his favour. Pursuant thereto an agreement was also executed. The materials on record further indicate that the Government communications dated 16.02.2010 and 25.08.2010 dealt with the remuneration payable to persons engaged under the scheme and that the petitioner was receiving salary in the pay scale of Rs.9300-34800/- with grade pay of Rs.4200/- until September 2018. Subsequently, vide reasoned order dated 01.10.2018, communicated through Memo No.3574, the claim of the petitioner for payment in the said pay scale was rejected and a fixed remuneration of Rs.16105/- per month was prescribed, pursuant to which the consequential office order dated 06.10.2018 was issued.



The respondents have contended that the petitioner was appointed on a contractual basis under a scheme, therefore, was not entitled to claim parity with regular Government employees. However, the issue in the present case is not merely whether a contractual employee can claim all the benefits available to a regular Government servant, but whether the remuneration previously admissible to the petitioner could be reduced in the manner adopted by the respondents, without adequately considering the terms and conditions governing his appointment and the relevant Government orders applicable to the post of Accountant. The petitioner has specifically contended that the impugned order was passed in departure from the earlier Government communications and that the decision concerning the Deputy Project Directors could not have been applied mechanically to his case, without considering the conditions applicable to the post held by him. In the aforesaid circumstances, the subsequent reduction of remuneration required a reasoned assessment of the petitioner's terms and conditions of appointment and the applicable policy governing the post of Accountant. The mere fact that the petitioner was engaged under a centrally sponsored scheme cannot, in itself, justify disregarding the terms and conditions, which governed his remuneration. Consequently, this Court finds that the impugned order contained in



memo no.3574 dated 01.10.2018 issued under the signature of the Principal Secretary, Department of Agriculture, Government of Bihar, Patna and the consequential order contained in memo no.353 dated 06.10.2018 requires interference, insofar it relates to the petitioner, as they reduce the petitioner's remuneration without adequately reconciling the earlier appointment related terms and the Government communications, with the basis for such reduction.

38. This Court further finds that the petitioner in C.W.J.C. No.832 of 2019 has also sought payment of salary for the period from 31.07.2020 to 29.06.2022, during which he was kept out of service, pursuant to office order contained in Memo No.523 dated 31.07.2020 and was subsequently reinstated in service vide office order contained in Memo No.254 dated 29.06.2022. The petitioner has contended that the order directing his cessation from service was issued by an authority, who was not competent to do so and that the subsequent order restoring him to service was passed upon rectification of the earlier action. In view of the subsequent reinstatement of the petitioner, the respondents were required to examine the circumstances in which he was kept out of service and to determine his entitlement to salary for the intervening period, in accordance with the applicable service conditions. The claim cannot be rejected merely on the basis that the petitioner did not actually



discharge his duties during the said period, without first examining whether his exclusion from service was lawful and whether the period of absence was attributable to any fault on his part. Accordingly, the respondent authorities are required to determine the petitioner's entitlement for salary for the aforesaid period, after considering the orders dated 31.07.2020 and 29.06.2022 and the circumstances leading to his subsequent reinstatement in service.

39. Accordingly, in view of the facts discussed above and the law laid down by the Hon'ble Supreme Court in the judgments referred above, this Court is of the considered opinion that the claims of the petitioners required to be allowed, to the extent indicated hereinabove. Consequently, in C.W.J.C. No.9687 of 2012, the impugned joint decision communicated vide Memo No. PPM-105/2009 (Part) 1626 dated 21.03.2012 and the consequential communication contained in Memo No. ATMA-11/2010-1794 dated 30.03.2012, insofar, as they deny the petitioners' entitlement to the applicable pay scale and direct for recovery on that basis, are hereby quashed, so far it relates to the petitioners no.3 & 5 are concerned. The respondent authorities are directed to determine and grant the pay scale admissible to the petitioners no.3 & 5, in accordance with the terms of their original appointment letters, the applicable revised ATMA scheme and the relevant Government



orders, after giving due consideration to the nature of their posts and the period for which they have rendered services. So far, the petitioners no.1, 2, 4 & 6 are concerned, they will not be entitled for any pay scale, which they are claiming, since in their appointment letters itself it was mentioned that their appointment is on contract basis on a fixed remuneration. So far, the petitioners no.7 & 8 are concerned, this court cannot issue any direction in their cases, since their appointment letters are not on record, therefore, the Respondent no.5 is directed to take decision on their claim, after going through their appointment letters, which was issued at the time of their initial appointment, in terms of the observations made above in the case of Petitioners no.3 & 5 and Petitioners no.1, 2, 4 & 6, after giving an opportunity to the petitioners no.7 & 8 to produce their respective appointment letters before him.

40. So far, C.W.J.C. No.832 of 2019 is concerned, the impugned order dated 01.10.2018, communicated vide Memo No.3574 and the consequential office order dated 06.10.2018, contained in Memo No.353, are hereby quashed, insofar as they reduce the petitioner's remuneration, without adequately considering the terms governing his appointment, the applicable Government communications, the appointment letter and the agreement executed. The respondents are directed to redetermine



the pay scale admissible to the petitioner in accordance with the appointment letter dated 19.09.2009 and the agreement executed in between the petitioner and the District Magistrate-cum-Chairman, ATMA, Muzaffarpur on 25.09.2009, which prescribes the pay scale of Rs.4000-6000/- and to calculate the consequential arrears, after giving credit for the amounts already paid to him. The respondent authorities shall also calculate and determine the petitioner's claim for salary for the period from 31.07.2020 to 29.06.2022 in the light of the circumstances leading to his exclusion from service and subsequent reinstatement.

41. The entire exercise, as indicated above, in both the writ petitions shall be completed by the competent authorities, within a period of three months from the date of receipt/production of a copy of this judgment.

42. It is clarified that the relief granted herein is confined to the determination and payment of remuneration legally admissible to the petitioners under the applicable terms of appointment and the Government orders. It shall not, by itself, be construed as a direction for regularization of their services or for grant of any other service benefit, which is not otherwise admissible to them under law. Both the writ petitions are accordingly allowed in the afore mentioned terms.



43. Pending interlocutory applications, if any, shall also stand disposed of.

(Ritesh Kumar, J)

AjayMishra/-

AFR/NAFR	
CAV DATE	27.07.2026
Uploading Date	27.10.2026
Transmission Date	

