

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**WP(S) No. 4668 OF 2016**

**with**

**WP(S) No. 4669 of 2016**

**WP(S) No. 4668 OF 2016**

1. Binod Kumar
2. Anand Kumar Singh
3. Kumari Usha
4. Jitan Yadav
5. Manoj Kumar Sahay
6. Raj Kumar Ram

.....Petitioners

-Versus-

1. The State of Jharkhand through the Chief Secretary, Govt. of Jharkhand, Ranchi
2. The Principal Secretary, Human Resources Development Department, Govt. of Jharkhand, Ranchi
3. The Director, Primary Education, Jharkhand, Ranchi
4. The Deputy Commissioner, Latehar

.....Respondents

**WP(S)No. 4669 of 2016**

1. Rajesh Kumar Verma
2. Sangita Kumari
3. Dharmendra Kumar Dhiraj
4. Arun Kumar
5. Ram Chandra Kumar Verma
6. Manohar Prasad Verma
7. Md. Ekramul Hoda Ansari
8. Munindra Prasad Sharma

..... Petitioners

Versus

1. The State of Jharkhand through the Chief Secretary, Govt. of Jharkhand, Ranchi
2. The Principal Secretary, Human Resources Development Department, Govt. of Jharkhand, Ranchi
3. The Director, Primary Education, Govt. of Jharkhand, Ranchi
4. The Deputy Commissioner, Giridih

.....Respondents

**CORAM : HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD**

.....

For the Petitioners : M/s Anjani Kumar Verma & Binay Kumar  
Sinha, Advocates ( in both cases)

For the Respondents : Mr. S. Ahmed, A.C. to S.C. (Mines)-I  
( in WPS No.4668 of 2016)

: Mr. Mithilesh Singh G.A. IV  
(in WPS No. 4669 of 2016)

: Mr. Manoj Tandon, Amicus Curie

: Mr. Praveen Akhouri, Adv

: Mr. Gautam Kumar, Adv

**CAV ON 27.10.2021**

**Pronounced on 10.02.2022**

**Per Dr. Ravi Ranjan, C.J.**

The following issues have been referred by a learned Single Judge of this Court to a Division Bench :-

- (i) Whether the judgment and the order passed in W.P.(S) no. 2928 of 2008 dated 20.09.2008 or the judgment dated 19<sup>th</sup> August 1999 passed by the Division Bench of the then Ranchi Bench of Patna High Court in LPA No. 47 of 1999 (R) in the Case of Gautam Singh versus Central Coalfields Limited will govern the field in respect of payment of Court Fee in writ applications where there are more than one writ petitioner in a single writ petition.
- (ii) Whether the stamp reporter is duty bound to point out the defect mandatorily if only one set of Court Fee is filed in a writ application when there are more than one writ petitioner, and it is only the "Taxing Officer" or the Court who can ignore the said defect/exempt payment of additional set of Court Fee.

2. Both the writ petitions have been filed *inter alia* for grant of following reliefs :

- (i) For direction to the respondents to take step for absorption of the service of the petitioners, who are working as Para Teachers as permanent regular teacher taking same and similar decision taken by the other State Governments such as the State of Orissa, Chhatisgarh and Uttar Pradesh etc. as evident from Govt. Memo No. 10557 dated 4.5.2013 (Annexure-7), Govt. Letter dated 07.05.2013(Annexure-8) and Govt. Letter No. 805-06/2015-16 dated 01.06.2015 (Annexure -9) respectively in the interest of justice, equity and fairplay as per the Constitutional mandates as enshrined in the Constitution of India.
- (ii) For direction to the respondents to pay the monthly wages/salary to the petitioners in minimum scale of pay with admissible D.A. etc. as provided to regular teachers following the Principle of Equal pay for equal work till a decision is being taken for their absorption as regular Primary Teachers following the settled principles of law.

3. Several petitioners, who are working as Para Teachers, have joined to file both the cases for a direction to the respondents to take steps for absorption of their services as permanent regular teacher as has been done by some other State Governments of the country.

4. The issue for determination is as to whether all the petitioners would have to file separate set of court fee or only one court fee is sufficient. The Registrar General has overruled the objection raised by the office for filing separate court fee on the basis of order dated 20.09.2018 passed by a Division Bench in W.P.(S) No.2928 of 2008.

The said Division Bench has held as under :

**“ Registry is not justified in directing the petitioner to pay separate set of court-fee as the petitioners have filed only one writ petition. If the writ petitions would have been filed separately, then there would have been justification in asking for separate sets of court-fee.”**

The learned Single Judge has recorded that on the basis of said order, all the petitioners have been exempted from paying separate Court Fee by the Lawazima Board and only one set of Court Fee was filed.

5. However, learned Single Judge has referred another decision of the Division Bench of Ranchi Bench of Patna High Court rendered in ***Gautam Singh vs Central Coalfields Ltd. (LPA No. 47 of 1999 (R))*** as well as ***Promod Kumar Akela & ors. vs. The Director, BIT, Sindri, Dhanbad and ors. ( LPA No. 100 of 1999(R) )***. In the aforesaid decisions, a Coordinate Division Bench of Ranchi Bench of Patna High Court, after considering catena of decisions on the issue has come to the conclusion that in LPA No. 47 of 1999(R) arising out of CWJC No. 2114 of 1988(R), 23 persons have jointly filed a writ petition, seeking appropriate writ or direction upon the respondents to reinstate them and regularize their services with back wages. The petitioners therein claimed to be employees of Central Coalfields Ltd. and were aggrieved by the termination of their respective services. The Court held that each of them has independent cause of action arising out of termination of their respective services and is asserting of his contractual/constitutional right as was in the case of ***P.R. Naidu vs. Government of A.P. (AIR 1977 SC 854)***. Accordingly, they were directed to pay

separate court fee. However, in LPA No 100 of 1999(R), a writ petition was filed by several writ petitioners for a direction upon the respondents to permit them to sit in the supplementary examination 1998 B.Sc. (Engineering) of 1<sup>st</sup> year in the respective branches. It was held by the Division Bench that their right to relief arises from one and the same order of the Institute, their cause of action is common and their interest is similar, they can maintain a single writ petition with one set of court fee.

6. In view of the aforesaid two conflicting decisions, the matter has been referred before the Division Bench.

7. We have heard the parties, perused the records and also gone through the judicial pronouncements, two of which have already been discussed as above.

So far as the decision rendered by a Division Bench in W.P.(S) No.2928 of 2008 is concerned, it simply says that since only one writ petition has been filed, petitioners are not required to file separate set of court fee and if the writ petitions would have been filed separately, then there would have been justification in asking for separate sets of Court fee. We are not in agreement with the aforesaid view, for the reason that the aforesaid decision has been rendered without considering the earlier judicial pronouncements and, therefore, that would not have binding precedent.

8. The aforesaid issue was considered and decided by a Division Bench of Patna High Court in ***Smt. Krishna Pati Devi & ors. vs.***

***The State of Bihar & ors. ( 1998 SCC Online Pat. 420)*** . In the aforesaid case, several persons had joined to file a writ petition challenging a notification issued by the respondents. The learned Single Judge had decided that though by the notification all the petitioners are affected but there is difference between common interest and similar interest. Therefore, separate court fee would be required to be paid. The aforesaid order was assailed in LPA No. 580 of 1998, which was disposed of by the aforesaid pronouncement by the Division Bench holding that if the interests among the petitioners are common or joint when they claim an interest as class or group, in that case only one set of court fee would be payable but when the interest is not common but similar in the sense that each of the petitioners has suffered individual injury as a result of the impugned order, then in that case though the interest is similar it cannot be termed as common interest and in such type of cases separate court fee is required to be paid. The Division Bench in paragraph-5 thereof has held as follows :

***“(5) 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 interest 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."***

9. The Hon'ble Supreme Court in ***Mota Singh & ors. vs. State of Haryana & Ors. ( 1980 [supp] Supreme Court cases 600 )*** has held that if the several writ petitioners, each having no jural relationship qua co-petitioners, but having similar cause of action, even then they cannot jointly file a single petition and pay only one set of court fee thereon.

10. A Single Bench of Patna High Court in ***Shiv Shankar Pandey & ors. vs. The Union of India & anr. ( [2002] 4 PLJR 665 )*** has referred to another judgment rendered by another Single Judge in ***Ram Nandan Sharma vs. The State of Bihar [ 2001 (3) PLJR 53 ]*** and held as to what would be 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. In the aforesaid case before the learned Single Judge , the writ petitioners were praying for regularization of their services and for payment of salary equal to Class IV employees. Therefore, it was held that the petitioners were praying for individual relief and they have joined the writ petition without there being any jural relationship between them. 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 the same shall be deemed to have been presented on behalf of each of the petitioners separately as, if each of 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 individually, each shall be liable to pay separate court fee. It has been further held by the learned Single Judge that 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. Finally, it has been held that relief of each of the petitioners is individual and grant of relief to one of them would not entitle the other petitioners to have the same benefits, thus, the petitioners are liable to pay separate court fee.

11. Similar view has been taken by another learned Single Judge of Patna High Court in ***Manoj Kumar Choudhary & ors. vs. The State of Bihar & ors. ( 2016 [4] PLJR 169 )*** but the learned Single Judge has held that there is a difference between the common interest and similar interest. If the petitioners are pursuing common or joint interest for a class as a whole then only one set of court-fee would be required, however, in case they have suffered individual injury, then interest may be similar but would not be common. In such case separate court-fee is required to be deposited by the petitioners. In that case, the petitioners were seeking only to the extent that certain examination would be held by the respondent-University. It was further held that in case even only one of the petitioners succeeds then examination would be held and the entire class would be benefited, thus, only one set of court fee can be filed in such a situation.



12. In another decision, learned Single Judge of Patna High Court in ***CWJC No. 3963 of 2015*** vide order dated 8.4.2015 has held that, if quashing of notification would benefit all the writ petitioners, then it would be common and similar interest and even if such relief is granted to one of the writ petitioner, all the petitioners would automatically get benefitted as the impugned notification has to be quashed. Therefore, in that case also, it was held that separate court fee is not required.

13. A Division Bench of this Court in ***Ram Naresh Singh vs. Bokaro Steel Plant & Ors. (LPA No. 510 of 2012)*** had noticed that the petitioners were occupying different official quarters allotted to them and were claiming for their independent gratuity amount, therefore, they are claiming their rights independently and none of the co-petitioners has any common right over each other's claim. Therefore, verdict of learned Single Judge was upheld and Letters Patent Appeal was dismissed.

14. In the case in hand, all the writ petitioners, who are working as Para Teachers, are claiming their respective absorption in the service as permanent regular teachers. In our view, all of them are claiming their individual rights and there is no jural relationship between the writ petitioners. Their cases can be of a similar interest but is not of a common interest. As mandamus has been sought for their individual absorption in service, it cannot be held that they are pursuing a common and joint interest or a class as a whole, rather they are pursuing their own interest. Therefore, it has to be understood that

they are pursuing their individual relief, although they may have similar interest. In our considered view, the petition shall be deemed to have been presented on behalf of each of the petitioners separately. If each of the petitioners has similar interest, they may be allowed to present joint petition but for the purpose of payment of court fee, they would be required to pay separate court fee. It is not the case that in case relief is granted to one of the writ petitioners, then all the writ petitioners would be benefited automatically. Actually, separate orders of authority would be required to be passed for their absorption considering the individual case. Thus, in our considered opinion, in the present case, separate sets of Court fee is required to be filed by the writ petitioners.

15. Issue no.1 is answered accordingly.

16. So far as Issue no.II is concerned, since we have held that the law declared vide order dated 20.9.2018 by a Division Bench in W.P.(S) No.2928 of 2008 cannot be a binding precedent and in view of discussions made above, the law declared by the Division Bench in LPA No.47 of 1990 (R) (Gautam Singh vs. Central Coalfields Ltd.) is correct, therefore, the Stamp Reporters would be duty bound to make a scrutiny, when a writ petition is filed by several writ petitioners as to whether separate court fee would be required to be filed or a single Court fee would be sufficient and as per the law declared. They would have to make an Office Note and refer the matter to the Bench concerned for a decision on the issue. Such an issue raised by the Stamp Reporter cannot be decided by a Lawazima

Board, rather the same would be required to be decided by an appropriate Bench.

17. This answers the second issue raised by the learned Single Judge.

18. Having held as above, now we direct that the matter be placed before the appropriate Bench having jurisdiction to hear and decide it.

**(Dr. Ravi Ranjan, C.J.)**

( I agree )

**(Sujit Narayan Prasad, J.)**

**(Sujit Narayan Prasad, J.)**

**G.Jha/ A.F.R.**