

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2892 of 2013

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1. Brajesh Kumar S/O Late Ganesh Sahu R/O Vill-Kamaruddinpur, P.S.-Begusarai Mufassil, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Middle School Makardahi, Anchal-Barauni, Distt-Begusarai
 2. Rashmi Kumari Daughter Of Ramchandra Sahu R/O Vill-Naulagarh, P.S.-Bhagwnapur, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Middle School, Mirganj, Anchal-Begusarai, Distt-Begusarai
 3. Krishna Kant Chaurasia S/O Vishnudeo Prasad Chaurasia R/O Vill&P.O.-Birpur, P.S.-Birpur, Distt-Begusarai At Present Posted And Working As An Assistant Teacher In Govt. Middle School, Ratauli, Anchal-Begusarai, Distt-Begusarai
 4. Dilip Kumar Sharma S/O Govardhan Sharma R/O Vill-Mirjapur Bandwar, P.S.-Begusarai Mufassil, Distt-Begusarai At Present Posted And Working As An Assistant Teacher In Govt. Kanya Middle School Matihani, Anchal-Matihani, Distt-Begusarai
 5. Vijay Kumar Arya S/O Radha Krishna Prasad R/O Vill&P.O.-Tajpur, P.S.-Bhagwanpur, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Middle School Dhabilapur, Anchal-Mansoorchak, Distt-Begusarai
 6. Shiva Kant Chaudhary S/O Late Devi Chaudhary R/O Vill-Bari Balia, P.O.&P.S.-Balia, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Kanya Middle School, Hussainichak, Anchal-Balia, Distt-Begusarai
 7. Ram Ratan Pandit S/O Ramdhani Pandit R/O Vill&P.O.-Begusarai, P.S.-Sahebpur Kamal, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Upgraded Middle School, Durakpur, Anchal-Sahebpur Kamal, Distt-Begusarai
 8. Binod Kumar S/O Late Jagdish Sah R/O Vill-Ajhaur, P.O.-Ajhaur, P.S.-Chandpura, Distt-Begusarai At Present Posted And Working As An Assistant Teacher In Govt. Upgraded Middle School, Suja, Anchal-Begusarai, Distt-Begusarai
 9. Nand Kumar S/O Rameshwar Prasad Yadav R/O Vill-Paguraha, P.O.-Rajaur, P.S.-Garhpura, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Middle School Kumharso, Anchal-Garhpura, Distt-Begusarai
 10. Niraj Kumar S/O Bhuneshwar Chaurasia R/O Vill-Lakhua, P.O.Rampur Samathu, P.S.&Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Upgraded Middle School Milki, Anchal-Chhaurahi, Distt-Begusarai
 11. Gulam Nabi S/O Md. Nasir R/O Vill-Fulwaria, P.O.-Dularpur, P.S.-Teghara, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Upgraded Middle School Fulwariaganj, Anchal-Teghara, Distt-Begusarai
 12. Rina Kumari Daughter Of Ram Charitra Singh R/O Vill&P.O.-Dularpur, P.S.-Teghara, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Upgraded Middle School Dularpur, Anchal-Teghara, Distt-Begusarai
 13. Chandra Bhushan Sharma S/O Late Mahesh Sharma R/O Vill&P.O.-Shahpur, P.S.-Begusarai Mufassil, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Middle School, Chhitraur, Anchal-Matihani, Distt-Begusarai
 14. Anil Kumar S/O Late Surya Narayan Sah R/O Vill-Singhpur, P.S.-Nayagaon, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Middle School Sankh, Anchal-Begusarai, Distt-Begusarai
 15. Prabhat Kumar S/O Late Chandra Kumar Rai R/O Vill-Narepur Tola Dharampur, P.O.&P.S.-Bachhawara, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Upgraded Middle School Sabaura, Anchal-Barauni, Distt-Begusarai
 16. Md. Shamimuddin S/O Md. Juber R/O Vill-Mobarakpur Hasanpur, P.O.-

Karichak Chhapaki, P.S.-Birpur, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Upgraded Urdu Middle School, Karichak, Anchal-Begusarai, Distt-Begusarai

17. Md. Naushad Alam S/O Late Moinuddin R/O Vill-Mobarakpur Hasanpur, P.O.-Babhangama, P.S.-Birpur, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Upgraded Urdu Middle School, Laruara, Anchal-Begusarai, Distt-Begusarai

18. Sanjay Kumar Anshumali S/O Subalal Anshumali R/O Vill&P.O.-Naulagarh, P.S.-Bhagwanpur, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Middle School, Naulagarh, P.S.-Bhagwanpur, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Middle School, Naulagarh, Anchal-Birpur, Distt-Begusarai

19. Prabhat Kumar S/O Late Baleshwar Paswan R/O Vill-Bhawanandpur, P.O.-Panapur, P.S.-Birpur, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Primary School Chandwara, Anchal-Begusarai, Distt-Begusarai

20. Shiv Kumar Singh S/O Late Ramashray Singh R/O Vill-Parra,P.O.-Saraunja, P.S.-Birpur, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Primary School, Muradpur Anchal-Birpur, Distt-Begusarai

21. Yogendra Kumar S/O Late Deo Suraj Mahto R/O Vill-Chhoti Balia, P.S.-Balia, Distt-Begusarai At Present And Working As An Assistant Teacher In Govt. Primary School Puwari Rajaura Anchal-Begusarai, Distt-Begusarai

22. Kumari Nilam Daughter Of Raghuvansh Singh R/O Vill-Barbighi, P.O.-Hussaina, P.S.-Balia, Distt-Begusarai,At Present Posted And Working As An Assistant Teacher In Govt. Primary School, Makardahi Anchal-Barauni, Distt-Begusarai

23. Naresh Prasad Singh S/O Shri Kant Lal Singh R/O Vill-Murali, P.O.-Bhawanipur, P.S.-Gopalpur,D Istt-Bhagalpur, At Present Posted And Working As An Assistant Teacher In Govt. Middle School, Noorjamapur,Anchal-Balia, Distt-Begusarai

24. Ragini Kumari Daughter Of Dinesh Kumar R/O Vill-Pansalla, P.O.-Bhairwar, P.S.-Begusarai Mufassil, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Middle School Anu, Pokharia, Anchal-Begusarai, Distt-Begusarai

25. Manoj Kumar Singh S/O Late Pram Sagar Singh R/O Vill-Rajaura, P.S.-Begusarai Mufassil, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Upgraded Middle School Parra, Anchal-Birpur, Distt-Begusarai

26. Ram Prakash Paswan S/O Late Anik Paswan R/O Vill-Balia Bazar Patel Chauk, P.S.-Balia, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Middle School, Lakhminia Bazar, Anchal-Balia, Distt-Begusarai

27. Pushpa Kumari Daughter Of Shri Munilal Bhagat R/O Vill-Chhoti Balia(Chakmarwan Tola), P.S.-Balia, Distt-Begusarai(At Present Posted And Working As An Assistant Teacher In Govt. Middle School Balia, Anchal-Balia, Distt-Begusarai

28. Wakil Prasad Rajak S/O Late Deo Narayan Rajak R/O Vill-Sondipi, P.S.-Balia, Distt-Begusarai, At Present Posted And Working As An Assistant Teacher In Govt. Middle School Sadipur, Anchal-Balia, Distt-Begusarai

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department , Government Of Bihar, Patna
3. The Director, Primary Education, Bihar, Patna
4. The District Magistrate, Begusarai
5. The Deputy Development Commissioner-Cum-Chairman, District Education

Establishment Committee, Begusarai

6. The Regional Deputy Director Of Education , Munger Division, Munger

7. The District Education Officer, Begusarai

8. The District Programme Officer, (Establishment), Begusarai

9. The District Treasury Officer, Begusarai

10. The Block Education Officer, Bachhawara Anchal, Distt-Begusarai

11. The Block Education Officer, Birpur Anchal, Distt-Begusarai

12. The Block Education Officer, Garhpura Anchal, Distt-Begusarai

13. The Block Education Officer, Chhaurahi Anchal, Distt-Begusarai

14. The Block Education Officer, Teghara Anchal, Distt-Begusarai

15. The Block Education Officer, Matihani Anchal, Distt-Begusarai

16. The Block Education Officer, Begusarai Anchal, Distt-Begusarai Null Null

17. The Block Education Officer, Mansoorchak Anchal, Distt-Begusarai Null Null

18. The Block Education Officer, Balia Anchal, Distt-Begusarai Null Null

19. The Block Education Officer, Barauni Anchal, Distt-Begusarai Null Null

20. The Headmaster Cum Drawing And Disbursing Officers Of The Petitioners' School, Distt-Begusarai

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 2269 of 2015

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1. Sanjay Kumar Ambastha S/o Late Maheshwari Prasad Resident of Mahabir Asthan Lane, Chowk Sikarpur, PS- Chowk, Patna City District - Patna presently working as Assistant Teacher, Government Middle School, Kasba Karimabad, Anchal - chowk Patna City, District- Patna.

2. Arun Rajak S/o Jodin Lal Rajak, Resident of Sri Krishna Vihar Colony, Beur PS- Beur District- Patna at present working as Assistant teacher, Primary School, Bhelwara, Chamar Toli, Sampat Chak, PS- Sampat Chak, Patna.

3. Satya Prakash Kumar son of Mishri Ram Resident of Ashok Nagar East, PS- Kankarbagh, District- Patna , at present posted as Assistant teacher, Primary School, Sampatchak (SC), Block- Phulwari Sharif, Patna.

4. Ramanuj Prasad S/o Shyam Narayan Prasad R/o Laxmi Nagar(E), Khemni Chak, New Jaganpura, Subhash Nagar PS- Ram Krishna Nagar, District-Patna at present posted as Assistant Teacher, Government Middle School, Chakpool, Sampatchak, Patna.

5. Umakant Singh Son of Ram Pravesh Singh Resident of IOC Road, Sipara, PS- Beur, District-Patna, present posted as Assistant Teacher, Government Middle School, , Sampatchak, District- Patna.

6. Ravi Ranjan kumar S/o late Braj Kishore Prasad. R/o Dundi Bazar, P.S- Chaowk, Patnacity, District - Patna , at present posted as Asstt.Teacher, Primary School, Nathuchak, Patna. Sadar, Patna.

7. Surendra Kumar S/o Late Shyamdeo Paswan R/o Gandhi Nagar, Boring Road, House No. A/8A, P.S Srikrishnapuri, District- Patna at present posted as Asstt. Teacher, Primary School, Station Road Fatuha, Patna

8. Mahesh Kumar S/o Late Shiv Nandan Kumar R/o Village- Chak Daulat, P.S- Lakhanpara , District- Patna at present posted as Assistant Teacher at Middle School, Dumari, Fatuha, District- Patna.

9. Vinod Kumar S/o Naresh Paswan R/o village- Gowasa Sheikhpura, P.S.- Pandarak, District- Patna at Present post as Asstt. Teacher at Madhya Vidyalaya, Sonaru, Fatuha, District- Patna.

10. Shiv Pukar Prasad S/o Ram Swarath Choudhary R/o New Bishunpur Pakari, Yadav Path, P.S.- Beur, District- Patna at present posted as Assistant Teacher at Primary School, Allauddinchak, Punpun, District- Patna..

11. Prabhat Kumar Sinha S/o Late Ishwari Prasad R/o Mogalpur, Lala Toli, P.S-

Mogalpura, Patnacity at present posted as Assistant Teacher at Primary School Lal Imali, Malsalami, Patnacity, District- Patna.

12. Madan Kumar S/o Late Jai Narayan Lal R/o Nitya Nand Ka Kuan, Lodikatra, P.S- Khajekalan, Patnacity, District- Patna at Present posted as Assistant Teacher as Madhya Vidyalaya, Daulatpur, Fatuha, District- Patna,.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Joint Secretary ,Education Department, Govt. of Bihar, Patna.
4. The Director, Primary Education , Govt, of Bihar, Patna.
5. The Bihar Secondary School Examination Board through its Secretary, Patna.
6. The District Magistrate , Patna.
7. The Regional Deputy Director of Education , Patana.
8. The District Education Officer, Patna.
9. The District Programme Officer (Establishment), Patna.
10. The District Accounts Officer, Patna.
11. The Treasury Officer, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 2328 of 2015

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1. Shivdani Prasad S/o Late Ram Prit Ram Resident of Vill and PO - Salimpur, PS - Bakhtiarpur, District - Patna presently working as Assistant Teacher, Primary School, Chanaki, Dhanarua, District Patna.
2. Nawal Kishore Singh S/o Late Janak Singh Resident of Vill - Akauna, PS - Punpun District - Patna presently working as Assistant Teacher, Primary School, Dumari Hindi, Punpun, District - Patna.
3. Sharadendu Mishra Son of Late Ram Padarath Mishra Resident of Vill - New Manichak, PS - Masaurhi, District - Patna at present posted as Assistant Teacher, Middle School, Sai Dhanarua, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Joint Secretary, Education Department, Govt. of Bihar, Patna.
4. The Director, Primary Education, Govt. of Bihar, Patna
5. The Bihar Secondary School Examination Board through its Secretary, Patna.
6. The District Magistrate, Patna.
7. The Regional Deputy Director of Education, Patna.
8. The District Education Officer, Patna.
9. The District Programme Officer (Establishment), Patna.
10. The District Accounts Officer, Patna.
11. The Treasury Officer, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 5807 of 2014

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1. Birendra Rajak S/O Late Mauje Rajak Village - Arnia, P.O. + P.S. - Jandaha,

- District - Vaishali, Presently Posted At New Primary School Dubha, Harijan Tola, Sahdai Bujurg, District - Vaishali
2. Amod Chaudhary S/O Late Gauri Chaudhary Village + P.O. - Nawnagar, P.S. Bidupur, District - Vaishali, Presently Posted At New Primary School Chainpur, Baghel, Sahdai Bujurg, District - Vaishali
3. Sukhdev Ram S/O Sri Rameshwar Ram Village - Harpur Osti, P.O. + P.S. Mahua, District - Vaishali, Presently Posted At Upgraded Middle School, Parsaunia, P.O. Mahua, District - Vaishali
4. Kailash Paswan S/O Sri Kalicharan Paswan Village - Chehra Khurd, P.O. Bakshama, P.S. Goroul, District - Vaishali, Presently Posted At Upgraded Middle School Fatahpur, District - Vaishali
5. Yugeswar Ram S/O Sri Lakhan Ram Village - Chaknashir, P.O. Sukki, P.S. Patepur, District - Vaishali, Presently Posted At New Primary School Dabhaich, Indira Awas Colony, Patepur, District - Vaishali
6. Baban Kumar S/O Krishna Prasad Paswan Village - Choti Yusufpur, P.O. Hajipur, P.S. Industrial Are Hajipur, District - Vaishali, Presently Posted At New Primary School Sindhia Kamalpur, Katharia, Block - Bidupur, District - Vaishali
7. Vinod Ram S/O Chinilal Ram Village - Bastikhojpur, P.O. Pastara, P.S. Baligaon, District - Vaishali, Presently Posted At New Primary School Kuria Chowk, Patepur, District - Vaishali
8. Jairam Sahni S/O Sri Nandlal Sahni Village - Chak Bhairo, P.O. Bhan Borhan, P.S. Jndaha, Presently Posted At New Primary School Chak Abdulganj Singiahi, Jandaha, District - Vaishali

.... Petitioner/s

Versus

1. The State Of Bihar, Through The Principal Secretary, Department Of Education, Govt. Of Bihar, Patna
2. The Director, Department Of Primary Education, Govt. Of Bihar, Patna
3. The Bihar School Examination Board, Patna Through The Secretary
4. The Regional Deputy Director Of Education, Muzaffarpur Division, Muzaffarpur
5. The District Education Officer, District - Vaishali
6. The District Programme Officer (Establishment), District Vaishali

.... Respondent/s

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Appearance :

(In CWJC No. 2892 of 2013)

- For the Petitioner/s : Mr. Binod Kanth, Sr. Advocate
Mr. Avanindra Kumar Jha, Advocate
Mr. Purushottam Kumar Jha, Advocate
Mr. Umesh Kumar Mishra
- For the Respondent/s : Mr. S. Raza Ahmad
Mr. Mani Kant Mishra
- For the BSEB: Mr. Ajay

(In CWJC No. 2269 of 2015)

- For the Petitioner/s : Mr. Santosh Kumar Singh
- For the Respondent/s : Mr. GP25- Mani Kant Mishra

(In CWJC No. 2328 of 2015)

- For the Petitioner/s : Mr. Santosh Kumar Singh
- For the Respondent/s : Mr. Prasoon Sinha

(In CWJC No. 5807 of 2014)

- For the Petitioner/s : Mr. Purushottam Kumar Jha
- For the Respondent/s : Mr. GP30- Raju Giri
- For the Board: Mr. Girijesh Kumar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT
Date: 13-05-2015



In the batch of writ applications, C.W.J.C. No. 2892 of 2013 was taken up as the lead case and the Court was addressed on the issue by a senior counsel, namely, Mr. Binod Kanth, so the basic facts and annexures have been relied and referred to in this Order in relation to the said writ application.

2. I. A. No. 1891 of 2014 has also been filed in C.W.J.C. No. 2892 of 2013, praying for some additional reliefs, therefore, the same is allowed.

3. Yet another Interlocutory Application in the said writ application, bearing, I. A. No. 5566 of 2014, for certain corrections and modifications. The said Interlocutory Application is also allowed.

4. At the very outset since petitioner nos. 2, 3, 6, 7 and 8 of C.W.J.C. No. 2892 of 2013 were expelled candidates from the 2004 examination, relating to teachers training, therefore, learned senior counsel fairly submits that they will be treated as such candidates, who have passed the teachers training examination in the second attempt and their relief cannot be equated with the relief of other petitioners. It is, therefore, certified that no relief in similar terms, as other petitioners, is

being extended to petitioner nos. 2, 3, 6, 7 and 8, namely, Rashmi Kumari, Krishna Kant Chaurasia, Shiva Kant Chaudhary, Ram Ratan Pandit and Binod Kumar, respectively.

5. The basic facts are that the petitioners were initially appointed as Assistant teachers in the untrained category in the matric-trained pay-scales, because of the higher qualification majority of them had. Post appointment, they have been sent for in-service training to different government primary teachers training colleges, in different batches. On completion of their training, a teachers training examination was held on 20.05.2004. These petitioners have failed in some papers. However, they were allowed to sit in the next examination, held on 31.07.2007. They were allowed to sit as “compartmental candidates”. This fact would be evident from reading of Annexure-5. The advertisement issued by the Bihar School Examination Board (hereinafter referred to as “Board” for short) is Annexure-5 annexed with I. A. No. 1891 of 2014.

6. It is the case of the petitioners that they have passed all the papers in the compartmental examination, therefore, they will be entitled to matric-trained-scale, treating them to be candidates, who



appeared in the very first attempt. That should entitle them to matric-trained-scale w.e.f. 01.10.2003. The State, however, is treating such candidates to have passed the examination in the second attempt. Therefore, their entitlement is being calculated from the date they sat for the second teachers training examination, held in the year 2007. Such a decision is reflected from Annexure-10 and 11 and as a consequence thereof, orders for recovery from the salary of such candidates came to be passed by various District Education Officers. One of the recovery order is Annexure-12 to the writ application. The petitioners, therefore, want quashing of those notifications, contained in Annexure-10, 11 and 12.

7. There has been a history of long legal battle with regard to entitlement of pay-scales and one of the leading cases, in relation to such dispute, is the case of ***Chandra Kant & Ors. Versus The State of Bihar & Ors., reported in 2010 (4) P.L.J.R. 732***. The Division Bench held that all those persons, who have passed their training examination in the first attempt, would be entitled to matric-trained-scale w.e.f. 01.10.2003 and those who passed the examination in second attempt would be entitled to that benefit from the date they appeared in the

examination.

8. In this relation, the Court must also take note of an Order passed by yet another Division Bench in L.P.A. No. 1459 of 2013 as well as Civil Review No. 357 of 2013, which was the case of Ramakant Yadav versus the State of Bihar, decided on 03.01.2014. The Order of the Division Bench in Ramakant Yadav's case led to issuance of a notification by the Director, Primary Education, Government of Bihar, Patna, dated 05.01.2015.

9. Learned senior counsel submits that the categorization and the notification issued by the Director, Primary Education, Government of Bihar, Patna, does not take into its ambit the peculiarity of facts applicable to the present petitioners and if the Court does not give appropriate direction or decide as to what should be the date from which they shall be entitled to matric-trained-scale, there will be consequences for them, including recovery, which has been ordered to be made.

10. The primary submission in support of the prayer made in the writ application with regard to the petitioners is that after the first training examination was held in the year 2004, the next examination was conducted by the Board only in the year 2007. There





was a long gap. As such, such petitioners, who have failed in a few papers, were treated as compartmental candidates and allowed to sit in the examination, held in the year 2007. This fact is evident from Annexure-5, annexed with the Interlocutory Application. If such of these petitioners were allowed to sit in the papers in which they have failed treating it to be a compartmental examination, then by understanding the word “compartmental” in common parlance as well as the various regulations relating to examination they have to be treated to have passed the examination with the batch of 2004 or first attempters. They cannot be treated to have passed the examination in second attempt by any interpretation. Many of regulations of various examinations and institutions have been brought on record in support of the above proposition in C.W.J.C. No. 2892 of 2013.

11. The word “**Compartment**” has been defined in the ***Chambers Dictionary, New Edition***, as under: -

“Partitioned off or marked off division of an enclosed space or area; a closed off division of a railway carriage; a division of anything – v.t. compart (rare) - to divide into parts – n. compartmentalization-compartmentalize or ise - to divide into categories or into units, especially units with little intercommunication - adv.- Compartmentally”



12. The reading of the meaning of the word “compartment” necessarily means that it is part of the main examination. A compartmental examination, therefore, is not an independent examination, but is treated as adjunct or continuity to the earlier examination in which a candidate may have cleared most of the papers except one or two. Whenever the results of such candidates are declared, it is declared in relation to the previous examination with an indication that the candidate has passed such papers in compartmental examination.

13. Learned senior counsel, therefore, emphasize that not only these petitioners, but such persons, who were allowed to sit in the 2007 examination in the failed papers have to be treated as compartmental candidates and, therefore, they have to be and they shall be treated as such candidates, who have passed the examination in the first attempt and entitled to the matric-trained-scale w.e.f. 01.10.2003.

14. The stand of the Director, Primary Education, Government of Bihar, Patna in the counter affidavit is that the State Government in its resolution, dated 05.01.2015 has clearly indicated that in terms of the Bihar Elementary School Appointment Rules, 1991

candidates who had appeared in the teachers training examination in the year 2004 and were successful will get the benefit from 01.10.2003. But those who appeared in the year 2007 examination and passed, are required to be given matric-trained-scale from the date of participation in the training examination held on 31.07.2007.

15. The State Government has taken into consideration the two Division Bench decisions and issued the notification, dated 05.01.2015. The State Government has been liberal anyway by extending the benefit of matric-trained-scale even to those candidates, who sat in the examination in the year 2007, even though the results came to be declared at a much subsequent date.

16. There cannot be any quarrel with the stand of the State with regard to all such candidates who either failed in the examination conducted in the year 2004 in the entirety or just did not sit or got expelled from the examination conducted in the year 2004. Such candidates cannot be treated to be candidates, who 'attempted' to pass the training examination. Since Grant of matric-trained-scale is integral to passing of training examination, no candidate, therefore, can claim as a



matter of right grant of matric-trained-scale without actually passing the examination in toto.

17. Those, who passed the training examination by sitting in examinations held in the year 2007, would be treated to be candidates, who have passed the examination in the second attempt. For them, the State Government has extended the benefit from the date of the examination, i.e., 31.07.2007. But in the case of such candidates who had failed in only one or two papers in the 2004 examination and were allowed to appear in the year 2007 as a compartmental candidate, their case falls in different class. By understanding of the word “compartment” and the various regulations, rules and directives in relation to conduct of compartmental examination, there is no other view except one that a compartmental examination is part and parcel of the main examination and they are like conjoint twins.

18. The advertisement of the Bihar School Examination Board also indicates that such candidates will be treated as compartmental candidates. If this be so, then the claim of these category of petitioners have to be considered as those belonging to the same class of candidates, who passed the training examination in



the first attempt, meaning thereby that they will get the pay-scale from 01.10.2003. The case of such candidates, therefore, who sat in the compartmental examination and which was delayed, because of reasons attributable to the State Government or Examination Board, will have to be treated as part and parcel of such successful candidates, who were successful in the year 2004 examination.

19. The Court therefore, gives a direction that all such candidates, including these petitioners, whose claim will be individually verified whether they were compartmental examinees of the 2007 examination and who have passed their compartmental examination, conducted in the year 2007 would be treated to have passed in the first attempt, i.e., 2004 and would be entitled to pay-scale from 01.10.2003.

20. No recovery or deduction from salary, therefore, is required to be made from such candidates and if it has been made it is required to be either refunded or credited into the account of the petitioners or such candidates.

21. It is made clear that above decision has been rendered with regard to all such class of persons irrespective of the fact whether they have approached



the High Court through the writ application or not, because the State must follow a uniform policy and cannot be seem to be encouraging litigation by compelling individuals to approach the Court for similar reliefs.

22. The writ applications, therefore, are allowed in terms of the above reiterating the fact that such candidates, who sat in the examination in the 2004, failed in some papers and were allowed to sit as a compartmental examinees, held in the year 2007, would be treated to have passed the examination in the first attempt itself and their entitlement of pay-scale will be from 01.10.2003 and not from the date they sat for the examination held in the year 2007, i.e., 31.07.2007.

All the writ applications are allowed in terms of the above.

(Ajay Kumar Tripathi, J.)

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