

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1620 of 2013

IN

Civil Writ Jurisdiction Case No. 14402 of 2006

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1. The State of Bihar Through The Chief Secretary, Old Secretariat, Patna.
 2. The Secretary, Cabinet Secretariat, Bihar, Patna.
 3. The Finance Commissioner, Old Secretariat, Bihar, Patna.
 4. The Personnel And Administrative Reforms Department, Bihar, Patna.
 5. The Commissioner Cum Secretary, Human Resources Development Department, Government Of Bihar, Vikas Bhawan, Patna.
 6. The Director, Secondary Education Government Of Bihar, Vikas Bhawan, Patna.
 7. The Director Administration, Government Of Bihar, Vikas Bhawan, Patna.
 8. The Assistant Director Of Education (Sanskrit), Government Of Bihar, Patna.

.... Appellants

Versus

1. Lallan Prasad S/O Late Bihari Lal Resident Of Village Chandhari, P.S- Isalampur, District- Nalanda At Present Resident Of Vllage Mohalla Mishri Tola, P.S- Sultanganj, District- Patna.
2. Ram Ran Vijay Thakur S/O Late Chandradev Thakur Resident Of Village Koeriya, P.S- Dinara, District- Rohtas.
3. Ramnaresh Sharma S/O Late Nand Keshaw Singh Resident Of Village Bhawanpur, P.S- Tekari, District- Gaya.
4. Shatrughan Prasad Singh S/O Late Binda Singh Resident Of Village Kanhaipur, P.S- Mokama, District- Patna
5. Vishwanath Prasad S/O Late Pyare Mohan Sahay Resident Of Village Chota Telpa, P.S- Chapra Town, District- Saran.
6. Kapildeo Dubey S/O Late Balmukund Dubey Resident Of Village- Mokhteyarpur, P.S- Dalsinghsarai, District- Samastipur.
7. Sukhdev Prasad Singh S/O Late Neelkanth Singh Resident Of Village Geruyari, P.S- Bakhteyarpur, District- Patna.
8. Baleshwar Prasad Sharma S/O Late Ramsewak Singh Resident Of Village Abharan Chak, P.S- Naubatpur, District- Patna
9. Shambhu Prasad Singh S/O Late Balmiki Prasad Singh Resident Of Sikarhula, P.S- Birpur, District- Begusarai.
10. Bramhdeo Pandit S/O Late Shiv Sahay Pandit Resident Of Mohalla Mania Chauraha, P.S- Munger Town, District- Munger.
11. Hari Narayan Mishra S/O Late Pandit Deo Prasad Mishra Resident Of Village Sadabah, P.S- Bikram, District- Patna
12. Nityaband Pandey S/O Late Bramhdeo Pandey Resident Of Village- Chata, P.S- Bansdih Road, District- Baliya (U.P)
13. Ramdev Sinha S/O Late Saryug Singh Resident Of Village Buddhimanpur, P.S- Paru, District- Muzaffarpur.
14. Rajnath Sinha S/O Late Deva Sinha Resident Of Village Kalyanpur, P.S- Paliganj, District- Patna
15. Vishwanth Prasad S/O Late Raghuveer Lall Dev Resident Of Village Bhattarbari, P.S- Forbisganj, District- Araria.
16. Bharat Prasad Mahto S/O Late Achhe Lal Mahto Resident Of Village Doghra, P.S- Jale, District- Darbhanga.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 4642 of 2014

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1. Uma Nand Mishra S/O Late Pandit Hare Ram Mishra Resident Of Hareram Sadan, Vasashpati Nagar, Sandalpur, P.S. Sultanganj, District Patna.
2. Gyani Mishra W/O Late Damodar Pathak Resident Of Village Babhangama, P.S. Bihpur, District Bhagalpur.
3. Awadh Kant Jha S/O Late Jagdish Jha Resident Of Bimla Sadan, Adarsh Colony (West Of Golki More), Ramkrishna Nagar, District Patna.
4. Ramanand Jha S/O Late Yamunadhar Jha Resident Of Village Babanbiga, Road No. 7, Kanhauli Khadi Bhandar, P.S. Mithanpura, District Muzaffarpur.
5. Anand Mohan S/O Late Chandra Shekhar Prasad Resident Of Shashtri Nagar, Vidya Pati Path, P.S. Mithanpur, District Muzaffarpur.
6. Hare Krishna Mishra S/O Late Lalan Mishra Resident Of Village Aghaila, P.S. Vijaypur, District Gopalganj.
7. Kripadish Chandra Srivastava S/O Late Hari Shankar Prasad Resident Of Adarsh Colony (Near Golki More), P.S. Ramkrishna Nagar, District Patna.
8. Rabindra Nath Pandey S/O Late Ramasish Pandey Resident Of Village Madhu Chapra, P.S. Piprakothi, District East Champaran.

.... Petitioners

Versus

1. The State of Bihar Through The Principal Secretary, Education Department, Vikash Bhawan, Patna.
2. The Director (Administration), Education Department, Vikas Bhawan, Patna.
3. The Director (Secondary Education), Education Department, Vikash Bhawan, Patna.
4. The Special Director, (Secondary Education), Education Department, Vikash Bhawan, Patna.
5. The Assistant Director (Sanskrit), Education Department, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 15280 of 2014

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1. Jagdeo Bhindwar S/o Late Ramnarayan Bhindwar, R/o At+P.O. - Suggapatti, P.S.- Phulparas, District- Madhubani, Presently Posted as Assistant Teacher in Govt. Sanskrit High School - Ara, District - Ara.
2. Prabhakar Prasad Singh S/o Late Harihar Prasad Yadav R/o Village + P.O. - Patharhat, P.S.- Dhanarua, District- Patna.
3. Ram Naresh S/o Late Janki Prasad Singh, R/o Village - Tilara, P.O. - Tungi, P.S.- Bajirganj, District- Gaya.
4. Gopal Krishna Jha S/o Sri Satya Narayan Jha Resident of Village + P.O.- Malmal, P.S. - Kaluyahi, District- Madhubani, Presently posted as Assistant Teacher in Govt. Sanskrit High School - Gaya, District- Gaya.
5. Sudarshan Sharma S/o Late Prashidh Narayan Sharma, Resident of Village + P.O. + P.S.- Khundwana, District- Aurangabad, Presently posted as Assistant Teacher in Govt. Sanskrit High School- Gaya, District- Gaya.
6. Girish Nandan Mishra S/o Late Ram Binay Mishra Resident of Village - Penhara, P.O.- Kartari, P.S.- Chiraiya, District- Motihari. Presently posted as Assistant Teacher in Govt. Sanskrit High School - Motihari, District - Motihari.

7. Rajendra Prasad S/o - Late Ramjanam Singh Resident of + P.O. - Dumranw, P.S.- Dumranw, District - Buxar.
8. Raghunath Ram S/o Late Karmu Ram Resident of Village - Patnwa, P.O. - Jamhor, P.S.- Jamhor, District- Aurangabad.
9. Shiv Nanadan Roy S/o Late - Deo Narayan Roy, Resident of Village + P.O.- Pachiyahi Puranatola, P.S.- Matihani, District- Begusarai.
10. Surendra Chaudhary S/o Late Dinesh Choudhary, Resident of Village + P.O.- Meghpur, P.S.- Sursand, District-Sitamarhi.
11. Ashok Kumar Sinha S/o Sri Parmeshawar Prasad Sinha, Resident of Village + P.O.- Baksama, P.S.- Goraul, District- Vaishali, Presently posted as Assistant Teacher in Govt. Sanskrit High School - Saurath, District - Madhubani.
12. Md. Shakil Ahmad S/o Late Suleman, Resident of Villae- Shahjubair Road, P.S.- Kotwali, District- Munger, Presently posted as Assistant Teacher in Govt. of Sanskrit High School- Munger, District- Munger.
13. Munmun Prasad Srivastav, S/o Late Bhubneshwar Prasad Srivastav, Resident of Village - Gosi Amnour, P.O. + P.S.- Amnour, District- Chhapra, Presently Posted as Assistant Teacher in Govt. Sanskrit High School - Chhapra, District- Chhapra.
14. Ram Swarup Yadav S/o Late Dhodhni Yadav Resident of Village - Sukinarpur, P.O.- Hirani, P.S.- Kusheshwar Astha, District- Darbhanga.
15. Vijay Kishore Pathak S/o Late Narsingh Pathak Resident of Village Patparia, P.O.- Roopdih, P.S. + District - Motihari, Presently posted as Assistant Teacher in Govt. Sanskrit High School - Motihari, District - Motihari.
16. Prakash Kumar S/o Late Bal Krishna Kumar Resident of Village and P.O. - Shiv Nagar, P.S.- Benipatti, District - Madhubani. Presently posted as Assistant Teacher in Govt. Sanskrit High School - Farbisganj, District - Araria.
17. Smt. Saroj Prakash W/o Sri Krishna Kumar Singh Resident of Mohalla + P.O.- Punaichak, P.S.- Shashtri Nagar, District- Patna. Presently posted as Assistant Teacher in Govt. Sanskrit High School - Patna, District - Patna.
18. Shambhu Nath Jha S/o Late Amar Nath Jha Resident of Village +P.O.- Hatdhah Rupali, P.S.- Bhairab Asthan, District- Madhubani.
19. Vijay Kant Jha S/o Late Shobha Kant Jha Resident of Village - Bishnupur, P.O. - Arer Hat, District- Madhubani.
20. Srikant Sharma S/o Late Kanhaiya Sharma, Resident of Village + P.O. + P.S.- Rampur Chauram, District- Arwal. Presently posted as Assistant Teacher in Govt. Sanskrit High School - Ara, District - Ara.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, New Secretariat, Vikas Bhawan, District- Patna.
3. The Director Secondary Education, Govt. of Bihar, New Secretariat, Vikas Bhawan, District - Patna.
4. The Director Administration cum Additional Secretary, Education Department, New Secretariat, Vikas Bhawan, District - Patna.
5. The Assistant Education Director Sanskrit, Govt. of Bihar, New Secretariat, Vikas Bhawan, District - Patna.

.... Respondent/s

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Appearance :

(In LPA No. 1620 of 2013)

For the Appellant/s : Mr. P N Shahi, Sr. Advocate, AAG X
Mr. Sanjay Kumar Singh
For the Respondent/s : Mr. Shailesh Kumar Sinha
For the Intervenor respondents: Mr. Purushottam Kumar Jha
Mr. Avanindra Kumar Jha

(In CWJC No. 4642 of 2014)

For the Petitioner/s : M/s Gajendra Kumar Jha, Suryakant Mishra
Sushil Kumar Jha
For the Respondent/s : Mr. P N Shahi, Sr. Advocate, AAG X
Mr. Mrityunjay Kumar, AC to AAG X

(InC No. 15280 of 2014)

For the Petitioner/s : Mr. Purushottam Kumar Jha
Mr. Avanindra Kumar Jha
For the Respondent/s : Mr. P N Shahi, Sr. Advocate, AAG X
Mr. D K Munna, AC to AAG X

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 20-01-2015

This Letters Patent Appeal under clause 10 of the Letters Patent is been filed by the appellant-State of Bihar against the order dated 18.3.2013 passed by the learned Single Judge in CWJC No. 14402 of 2006. For the sake of convenience, we refer to the parties as arrayed in the writ petition.

Petitioner nos. 1 to 16 were appointed as Sanskrit teachers in various institutions, established or controlled by the Government. They were governed by the Bihar Subordinate Education Service Rules. There existed a superior service, in the

Education Department under the Bihar Education Service Rules. Through its resolution dated 7.7.2006, the State of Bihar merged both the services and the employees governed by the Bihar Subordinate Education Service Rules were fitted in Class II of the Bihar Education Service Rules. This arrangement became effective from 1.1.1977.

The petitioners, though retired from service by 7.7.2006 were very much in service as on 1.1.1977. By referring to various orders, passed in writ petitions and letters patent appeals by this Court and by the Supreme Court, in special leave petitions; they claimed the benefit of merger of both the services by filing the writ petitions. The plea of the respondents, i.e. the State was that the Sanskrit teachers were not part of the Bihar Subordinate Education Service and as such they are not entitled to the benefit of merger.

The learned Single Judge referred to various orders as well as the provisions of Service Rules and took the view that the Sanskrit teachers were treated as part of the Bihar Subordinate Education Service and on its merger they become part of Bihar Education Service in Class II. Accordingly relief was granted. The said order is challenged in these appeals.

Heard Mr. Pushkar Narain Shahi for the appellants and Mr. Shailesh Kumar, learned counsel for the respondents.

The main plank of the argument of the appellants is that the Sanskrit teachers were never treated as part of the Bihar Subordinate Education Service. They did not dispute that all the teachers who were governed by the Bihar Subordinate Education Service Rules were extended the benefit of merger with effect from 1.1.1977. Therefore, the only aspect to be verified as to whether the Sanskrit teachers were governed by any other service rules.

It is not in dispute that after the appointment of the

petitioners they were extended the benefit of pay scale and other facilities as per the Bihar Subordinate Education Service Rules. They served in the same institutions where the teachers of similar category were functioning. Further, it is not pointed out that there exists any separate set of rules, governing the services of the Sanskrit teachers. An attempt is made to rely upon certain provision in the Bihar Education Code. In that provision, emphasis is laid on the oriental education and reference is made to the teaching in Sanskrit also.

It is a matter of common knowledge that the State and the Central Governments initiated special measures for developing the oriental languages and teaching thereof. Being an oriental language, Sanskrit was included in the provision. The mere mentioning of Sanskrit language in the context of promotion of oriental languages does not take away the same from the field of general education. Further, in the State of Bihar there was provision for teaching of Sanskrit just as the facility existed for teaching of other languages, such as English, Hindi and Urdu. There is no reason as to why the teachers of Sanskrit can be singled out in this context.

We do not find any basis of interference with the order passed by the learned Single Judge. It is brought to our notice that during the pendency of the appeal, the Director, Secondary Education passed an order dated 30.6.2014 making certain observations and restricting the rights not only of the respondents herein but also the petitioners in CWJC No. 15280 of 2014 from getting any relief from the Court.

We dismiss these appeals. The respondents shall be extended the benefit of the orders passed in the writ petition, notwithstanding any subsequent developments.

There shall be no order as to costs.

Interlocutory Applications shall also stand disposed of.

(L. Narasimha Reddy,CJ)

(Gopal Prasad, J)

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