

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.959 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 10317 of 2013**

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Lal Kishore Ram, son of late Ram Das Ram, resident of village & P.O.-Bharauli,
Via- Zeeradeyee, P.S.- Ander, District- Siwan, retired while working as an
Assistant Teacher from Govt. Middle School Machakana, Anchal- Hussainganj,
District-Siwan.

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The District Magistrate, Siwan.
4. The District Education Officer, Siwan.
5. The District Programme Officer (Establishment), Siwan.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Umesh Kumar Mishra, Advocate.

For the Respondent/s : Mrs. Nivedita Nirvikar, G.A. 7

Mr. Manoj Kumar, A.C. to G.A. 7

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 09-09-2016

Re.:I.A. No. 4020 of 2015

The application is for condonation of delay of 43 days
in filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory
Application, we are satisfied that the appellant has shown sufficient
cause to seek condonation of delay of 43 days in filing the present
Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 4020 of 2015 is allowed and delay of 43 days in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 959 of 2015

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 10th of November, 2014 in C.W.J.C. No. 10317 of 2013 whereby, the District Education Officer, Siwan was directed to initiate the process of grant of second Time Bound Promotion said to be due on 01.09.2011 on completion of 25 years of service.

3. The appellant was appointed on 18.04.1976 by the District Superintendent of Education, Siwan on stipend basis against the sanctioned and vacant post of Matric Trained Teacher. The appellant refers to the resolution of the Bihar Finance Department dated 30th of December, 1981 contemplating first Time Bound Promotion by the end of 10 years and second Time Bound Promotion by the end of 25 years of service and thus claims benefit of second time bound promotion.

4. The stand of the appellant is that he has undergone training in the Primary Teachers Training College in the year 1987 and has been granted Matric Trained pay-scale with effect from



10.02.1987, therefore, now he is entitled to Graduate Trained Scale. The appellant earlier filed a writ application bearing C.W.J.C. No. 8996 of 2004 (Lal Kishore Ram Vs. The State of Bihar and others) which was decided on 20th of September, 2005. The claim of the appellant was for grant of Matric Trained Scale and Graduate Trained Scale. The direction was to decide the representation as appended with the writ application by a reasoned and speaking order. It is thereafter, as per the counter affidavit, speaking order was passed on 23rd of February, 2006. The order is to the effect that appellant is getting Matric Trained scale with effect from 10th of February, 1987 whereas, Graduate Trained Scale is being given on the basis of his rank in the Gradation List.

5. Admittedly, the appellant is governed by Bihar Nationalized Primary School Teachers (Promotion Rules), 2011 (hereinafter referred to as “the Rules”). Rule 7 of the Rules contemplates grant of first Grade Pay after completion of 12 years and second Grade Pay after completion of 24 years of satisfactory service to teachers who are Matric/ Intermediate trained. The appellant refers to Rule 8 of the Rules which deals with Grade III pay-scale to Graduate, meritorious teachers.

6. The stand of the State Government while deciding the representation on 23rd of February, 2006 is that the appellant shall

be considered for Graduate Trained scale as per his ranking in the Gradation List whereas the Rule does not talk about ranking in the Gradation List but completion of 24 years of service before the second Grade pay is granted to a Graduate Trained Teacher.

7. Since no decision has been taken by the State Government considering the Rules, we dispose of the present Letters Patent Appeal with a direction to the competent authority to take a decision in respect of admissibility of second Grade Pay- Graduate Trained scale in terms of the Rules and in accordance with law expeditiously, preferably within a period of three months from the date of receipt/production of a copy of this order by the competent authority.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P.
N.A.F.R.

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