

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 221 of 2014

IN

Civil Writ Jurisdiction Case No 18297 of 2012

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Arun Kumar, son of late Rupchand Prasad, resident of Village – Telhara, PO & PS
– Telhara, District - Nalanda

.... Appellant/s

Versus

- 1 The State of Bihar through the Chief Secretary, Government of Bihar, Patna
- 2 The Principal Secretary, Human Resources Department, Government of Bihar, Patna
- 3 The Director, Primary Education, Bihar, Patna
- 4 The District Magistrate, Nalanda
- 5 The District Education Officer, Nalanda
- 6 The District Programme Officer, Nalanda
- 7 The Block Education Extension Officer, Karai Parsurai, District – Nalanda
- 8 Ashok Kr, son of Sri Singheshwar Das, resident of Kaushalpur, PO – Daily, PS – Harnaut, District - Nalanda

.... Respondent/s

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Appearance :

For the Appellant/s : Mr Rabindra prasad Singh, Advocate

For the Respondent/s : Mr Brajesh Kumar, AC to AAG 11

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

&

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 10-03-2016

This appeal has been filed by the writ petitioner being aggrieved by the judgment and order dated 17.06.2013 passed in CWJC No 18297 of 2012 by which the learned Single Judge of this Court has dismissed the writ petition holding that the writ petitioner is not entitled to Graduate Trained Scale inasmuch as he has acquired the qualification of Sahitya Alankar which is not equivalent to

Graduate.

2 We have heard the learned counsel for the writ petitioner/appellant and the learned counsel for the State and, with their consent, this appeal is being disposed of at this stage itself.

3 It is not in dispute that the writ petitioner was appointed as an Assistant Teacher on 11.12.1999 having qualification of Intermediate degree. He acquired the qualification of Sahitya Alankar from Hindi Vidyapeeth, Deoghar in the year 2001, certificate whereof is annexed as Annexure 4 to this Memo of Appeal. He, thereafter, did his Master of Arts from Nalanda Open University which is a University established by an Act of State Government. Thereafter, he acquired Ph D degree from Magadh University in the year, 2010.

4 When the question of making seniority list for Teachers as also for grant of Graduate Trained Scale came up for consideration before the State, the writ petitioner/appellant was denied the Graduate Trained Scale only on the ground that Sahitya Alankar is not equivalent to Graduation based on Division Bench judgment of this Court.

5 We have considered similar matter sitting in Division Bench where we have noticed that even though the qualification of Sahitya Alankar may not be recognized equivalent to

Graduation but the very fact that thereafter, the petitioner, having obtained Ph D degree, cannot be lost sight of. It would be diabolical to say that a person would be a Ph D degree holder but his Graduation would be invalid.

6 In that view of the matter and in view of the judgments of this Court in the case of *Dr Amresh Thakur –Versus- State of Bihar & Others (LPA No 11 of 2014)* disposed of on 27.01.2016 and in the case of *Ghanshyam Prasad Singh –Versus- State of Bihar & Others (LPA No 1027 of 2014)* disposed of on 23.02.2016, we are of the view that the judgment of the learned Single Judge cannot be sustained. It is, accordingly, set aside. This appeal is allowed and the respondents are directed to take into account the Ph D degree attained by the writ petitioner/appellant as and when it was so granted for the grant of Graduate Trained Scale.

(Navaniti Prasad Singh, J)

M.E.H./-

(Nilu Agrawal, J)

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