

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9842 of 2013

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Shambhu Saran Son of Sri Arjun Prasad, resident of mohalla- Adarsh Nagar, Ward No.- 7, North of Chaiti Durga Chawk, P.S. Madhepura, District- Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Primary Education, Government of Bihar, Patna
2. The Registrar, T.M.B. Bhagalpur University, Bhagalpur
3. The District Education Officer, Supaul
4. The District Programme Officer (Establishment), Supaul.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Harendra Kumar Tiwary, Adv.

For the Respondent/s : Mr. S.K. Saraf, AC to GP-

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 19-07-2016

Heard learned counsel for the petitioner and learned counsel for the State.

In this case, the petitioner is seeking relief of promotion of the post of Head Master claiming that he should be given the benefit of Rule-10 of Elementary School Teacher Promotion Rule, 2011 read with the Notification issued by the Government of Bihar, vide Memo. No. 697 dated 15.10.2012, as he has been given the benefit of graduate trained scale with effect from 31st May 2011 and having qualification of Post Graduate.

As per the claim of the petitioner, he entered into the service in the year 1988, joined the service as Teacher in upgraded Middle School Kasaha Bazar under district Supaul and thereafter, he



has been granted B.A. trained scale with effect from 31st May 2011 whereby he was provided the monetary benefit. While he was discharging the duty as Teacher, the Government came up with Circular dated 15.10.2012 and 11.12.2012 whereby and whereunder, granted the exemption in terms of Rule-10 of the Promotion Rule. He has further submitted that as petitioner has been given the benefit of graduate trained scale with effect from 31st May 2011, in such circumstances, he qualifies condition where it has been provided that a person holding the Post Graduate degree, having one year experience, will be considered for promotion to the post of Principal and as such, he is entitled for promotion.

This Court has asked the counsel for the petitioner what is the actual date of granting graduate trained scale and when the Notification was issued in his favour, whereupon the counsel for the petitioner could not point out the actual date, when he was promoted to graduate trained scale. Merely a person has been given the benefit from an anterior date, cannot get any benefit of experience of teaching. Payment of salary is one thing and getting experience of teaching is another thing. The Government may grant the benefit of the scale from the back date, does not certify that he has gained the experience from the back date. The person will get experience when he has actually joined the post and discharged the

duty.

As the counsel for the petitioner could not point out the actual date, this Court is disposing of this writ application with direction that if the petitioner has gained experience of one year, will file a representation along with a copy of this order before the competent authority, who will examine the matter in terms of Rule-10 and Notification as mentioned herein above, will pass the order in accordance with law.

If such representation is filed, the Authority will pass a reasoned order within a period of six months from the date of filing of the representation.

With the above observation/direction, this petition is disposed of.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	25.7.16
Transmission Date	