

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4504 of 2013

1. Shyam Narayan Mishra Son Of Late Uma Kant Mishra Resident Of Village + Post Kerwar, P.S. Bisphi, District Madhubani
2. Bindeshwar Prasad Son Of Late Mauje Sahu Resident Of Village Pali Goth, P.S. Benipatti, District Madhubani
3. Satish Chandra Lal Son Of Sri Indra Narayan Das Resident Of Village Navhath, P.O. Lohath, P.S. Pandaul, District Madhubani
4. Krishna Chandra Jha Son Of Late Sarat Chandra Jha Resident Of Village + Post Shivi Patti, P.S. Ray Nagar, District Madhubani
5. Nagendra Nath Jha Son Of Late Lok Nath Jha Resident Of Village Nagdah, P.S. Arer, District Madhubani
6. Vinay Kant Jha Son Of Late Baidya Nath Jha Resident Of Village + Post Haripur Dih Tola, P.S. Kaluahi District Madhubani
7. Maha Nand Thakur Son Of Late Durga Nath Thakur Resident Of Village Karmauli, P.S. Kaluahi District Madhubani
8. Bhagendra Yadav Son Of Late Lal Yadav Resident Of Village Ektara, P.S. Arer, District Madhubani
9. Ram Bhujhwan Yadav Son Of Late Lakshmi Narayan Yadav Resident Of Village Bhoj Pandaul, P.S. Bisfi, District Madhubani
10. Madan Mohan Mishra Son Of Late Jay Nandan Mishra Resident Of Village Navhath, P.S. Pandaul, District Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary (Education Department) Government Of Bihar, Patna
3. The Director Of Primary Education (Government Of Bihar), Patna
4. The District Education Officer, District Madhubani
5. The District Programme Officer, Establishment , Madhubani District Madhubani

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Prabhash Ranjan Thakur
Mr. Nand Kishore Singh

For the Respondent/s : Mr. Lalan Kumar, A.C. to G.P.23.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 05-04-2016

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

In this case, the petitioners have raised a limited grievance that though they have been granted the B.A. trained scale but from the wrong date as they have been granted the benefit of B.A. trained scale from the date of joining, rather it should be granted from the date of decision taken by the Establishment Committed for granting the relief to them.

The matter with regard to grant of promotion to the teachers of elementary schools was pending before this Court in Full Bench. This Court decided the same in **Ramnath Prasad Singh vs. State of Bihar and Ors. (2009(3) PLJR, page 384)** and given direction in what manner the seniority listed has to be prepared and in what manner promotion to B.A. trained scale and Principal will be given to the teachers of elementary schools.

Pendency of 10 years was taken cognizance by the Principal Secretary, Human Resources Department, Government of Bihar, Patna, which is apparently clear from the letter dated 19.7.2009, where it has been specifically mentioned that the issue with regard to promotion remained pending before the High Court



for 10 years and that caused an adverse impact on teaching in the school and he requested all the District Magistrates and District Education of Superintendents to prepare the merit list of Science and Art teachers to be promoted to B.A. trained scale within three months, but it took 3 years from the lower level to prepare the panel of candidates. It appears that the Establishment Committee has decided to give the promotion to the petitioners and others on its meeting dated 13.03.2012. Thereafter a final panel was prepared by office order dated 26.08.2012 and finally the posting was given to them by letter dated 3.9.2012.

The benefit of promotion cannot be given from the date of decision of the Establishment Committee, but certainly the petitioners cannot be deprived of the benefit when the office order granting promotion to the petitioners was issued on 28.6.2012, which remained dependant on the date of joining to the respective schools. They remained deprived for promotion for 10 years because of the pendency of the case before this Court so much so the letter from the Principal Secretary to take action within three months, but they have taken altogether more than three years.

Looking to the predicament and the pendency of the case before this Court, the petitioners are granted the benefit of B.A.

trained scale notionally with effect from 28.06.2008. The petitioners will not be granted the monetary benefit for the period they did not join to the post.

With the aforesaid observations and directions, this writ petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

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