

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3035 of 2013

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1. Ram Naresh Prasad Sah S/O - Late Bhagwan Sah R/O - Village - Bagmali, P.O. - Hajipur, P.S. - Hajipur Nagar, District - Vaishali

.... Petitioner/s

Versus

1. The State Of Bihar, Through Its Secretary, Education Department, Govt. Of Bihar, Patna
2. The Director (Primary Education), Education Department, Govt. Of Bihar, Patna
3. The District Magistrate Saran
4. The Deputy Development Commissioner, Saran
5. The District Education Officer, Saran
6. The District Program Officer (Establishment), Saran
7. The Block Education Officer, Parsa District Saran
8. The Area Officer, Amnaur Block, District Saran
9. The Accountant General, Bihar, Patna
10. The District Provident Fund Officer, Saran
11. The Treasury Officer, Saran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. SHASHI BHUSHAN KUMAR

For the Respondent/s : Mr. A.P. Singh, SC 13

Mr. S.K. Ranjan, AC to SC 13

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-02-2016

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

In the present writ petition, petitioner has raised a grievance that he has not been given promotion to Matric Trained Scale Grade III in the pay scale of Rs.5500-175-9000. He claims that he was appointed in 1964, as on today he is senior most teacher of Saran District but he has been deprived of this benefit on the ground that he is not holding the requisite qualification of graduation as the qualification of Sahitya Alankar from Deoghar

Vidyapith which has not been recognized by the State of Bihar as equivalent to B.A. degree and on that basis the claim of the petitioner has been rejected by the District Programme Officer (Establishment) Saran.

Learned counsel for the petitioner has submitted that Rule 5(1) of the Bihar Taken Over Elementary School Teachers Promotion Rules, 1993 provides that for promotion to Grade III, the essential qualification is Trained Graduate having minimum 12 years of service in Grade II or alternative essential qualification is Matric trained and minimum 18 years of service in Grade-II will be required for promotion to the aforesaid scale of pay. Even though the petitioner does not have qualification of graduation and 12 years of service but he fulfills alternative essential qualification which stipulates that the Matric Trained teacher having discharged the duty for 18 years in Grade II pay-scale will also be appropriate essential qualification for promotion in Grade III as he has discharged duty in Grade II in Matric Trained teacher for more than 18 years is entitled to Grade III pay scale as he fulfills requisite qualification for promotion.

The District Programme Officer has not considered the case of the petitioner from this angle. He has confined his consideration with reference to his qualification of Sahitya Alankar issued from the Deoghar Vidyapith.

This Court holds that the view that has been taken with regard to the qualification cannot be said to be in correct decision but the promotion from another angle as aforesaid will also require to be looked into as it provides alternative qualification mentioned under sub-rule 1 of Rule 5.

In this view of the matter, the matter is remanded back to the District Programme Officer (Establishment) Saran who will consider the case of the petitioner for promotion to the next higher grade and pass a reasoned order within a period of four weeks from the date of receipt/production of a copy of this order.

At this stage, learned counsel for the State has submitted that 1993 Rule is not in existence, the same has already been repealed by Promotion Rule, 2011. The authority will also examine the case of the petitioner from this angle as to whether case of the petitioner is governed by Rule 1993 or Rule 2011.

With the aforesaid observation/direction this writ petition is disposed of.

Vinay/-

(Shivaji Pandey, J)

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