

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11125 of 2014

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1. Rakesh Kumar, Son of Sri Janardan Prasad Singh, At- Bhusia, P.O. Rajoun, P.S. Rajoun, Distt- Banka. At present Assistant Teacher, Primary School, Mirjapur Rajoun, Distt- Banka
 2. Raj Kumar, C/o Late Ramchandra Rai, At- Asmani Chak, P.O. Bamdeo, P.S. Rajoun, Distt- Banka. At present Assistant Teacher, Primary School, Tilakpur Rajoun, Distt- Banka
 3. Nityanand Prasad, C/o Late Rabindra Prasad Yadav, At- Nagel, P.O. Bisanpur, P.S. Belhar, Distt- Banka. At present Assistant Teacher, V.M.S. Cahity Belhar, Distt- Banka
 4. Rakesh Kumar Rai, C/o Late Utam Prasad Yadav, At- Badlachak, P.O. Dhankuari, P.S. Belhar, Distt- Banka. At present Assistant Teacher, Primary School, Ghuriamari Fullidumar, Distt- Banka
 5. Praveen Kumar Ranjan, C/o Sri Om Prakash Yadav, At- Bharko, P.O. Bharko, P.S. Amarpur, Distt- Banka. At present Assistant Teacher, V.M.S. Kadarsa Chandan,, Distt- Banka
 6. Md. Masihuddin, C/o Md. Anamul Haque, At+P.O.- Kasba, P.S. Sambuganj, Distt- Banka. At present Assistant Teacher, Urdu Primary School, Kasba Sambuganj, Distt- Banka
 7. Kumod Kumar Chaudhary, C/o Late Rajendra Prasad Choudhary, At- Makeshair, P.O. Sri Pathar Patwa, P.S. Dhoriya, Distt- Banka. At present Assistant Teacher, V.M.S. Lagoain Dhoriya, District- Banka
 8. Manik Kumar Mishra C/o Sri Sudhanshu Bhusan Mishra, At+P.O.- Dumaramath, P.S.- Amarpur, Distt- Banka. At present Assistant Teacher, Kanya Middle School, Amarpur, Banka, District- Banka
 9. Pankaj Kumar S/o Late Jyotish Prasad Sah, Assistant Teacher, V.M.S. Kateli Banka, Distt- Banka

.... Petitioners

Versus

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

.... Respondents

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Appearance :

For the Petitioners	:	Mr. Rajeev Kumar Singh, Advocate
For the State	:	Mr. P.N. Shahi, AAG6
		Mr. Sita Ram Yadav, G.P.16

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
CAV JUDGMENT

Date: 15-12-2016

The nine set of petitioners have filed the writ application



for a direction upon the respondents to grant them matric trained scale w.e.f. 01.10.2003 just like so called similarly situated persons have been extended that benefit.

2. All these petitioners are compassionate appointees on different dates and are working thereafter as Assistant Teachers in different government schools. It is their case that all of them were appointed prior to the year 2001. However, they were sent for training only in the year 2007-2008. After completion of their training, they were allowed to appear in the examination held in the year 2010-2012 and the result was published in the year 2011-2012. The delay in sending these petitioners for training was deliberate action of the respondents and petitioners cannot be made to suffer by non-grant of benefit of matric trained scale like other persons who had been appointed before 2001. The petitioners, therefore, have suffered by non-grant of the matric trained pay scale from a prior date rather than on the basis of the date of passing of the examination.

3. The stand of the respondents in the counter affidavit as well as supplementary counter affidavit is that the demand of these petitioners are misplaced and unwarranted for the reason that grant of matric trained scale is integral to training and passing the examination. If these petitioners have participated in the examination in the year 2011 and have been declared successful in the year 2012,



they cannot get matric trained scale from a prior date since they have got training and certification of passing only in the year 2012. No person can be deemed to have been trained from a back date merely by virtue of his date of appointment. There has been some previous litigations as well when candidates appointed on the post of Assistant Teachers prior to the year 1997 did not get training for a long period of time and, therefore, they had approached the Court and the matter travelled to the Division Bench, which is the case of *Chandra Kant & Ors. vs. State of Bihar & Ors.*, reported in 2010(4) PLJR 732. The Division Bench taking note of the facts as a one time measure directed extending the benefit of matric trained scale to such teachers who had passed the training examination till June, 2005 giving the benefit from 01.10.2003 as a one time relaxation to Rule 11 of what is known as Bihar Elementary Schools Teachers Appointment Rules, 1991, as amended up to date.

4. For the rest of the teachers who passed the examination on the second attempt, the direction was to extend the benefit from the date of sitting in the examination in the second attempt. This aspect of the matter has been dealt in the case of *Rama Kant Yadav vs. State of Bihar*, reported in 2014 (1) PLJR 423.

5. As a consequence of the judicial directions, the Department of Education, Government of Bihar issued a resolution



dated 05.01.2015 clarifying the basis for grant of matric trained scale to the teachers, which was in conformity with the two Division Bench decisions of *Chandra Kant* (supra) as well as the case of *Rama Kant Yadav* (supra). The resolution date 05.01.2015 is Annexure-B to the supplementary counter affidavit filed on behalf of respondent no.5.

6. Enough of deliberations and litigations have happened on such issue. There cannot be categorization and re-categorization of teachers for grant of benefit of matric trained scale over and above what has already been declared by the two Division Benches and which has been codified in the resolution dated 05.01.2015. Since there were large number of untrained teachers who came to be appointed and the training could not be provided to one and all simultaneously, therefore, based on their seniority and available seats for such training and examination, people had been sent by the Department. They cannot now plead that they should have been sent for training earlier. No sooner these petitioners have completed their training and passed the examination, the authorities have given them the benefit of matric trained scale from the date of passing of the examination.

7. The Court, in the above background, is not convinced about the claim of the petitioners for grant of matric trained scale without completion and passing of the training examination, merely



from the date of their appointment.

8. Writ application has no merit and is dismissed.

(Ajay Kumar Tripathi, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	09.08.2016
Uploading Date	15.12.2016
Transmission Date	NA

