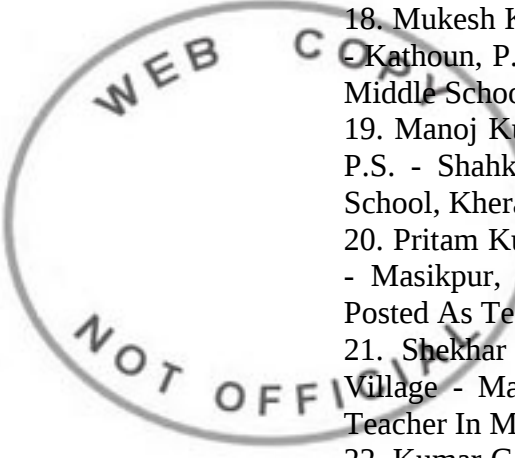


IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4147 of 2014

1. Jitendra Kumar Choudhary Son Of Late Bishwanath Choudhary Resident Of Village - Telghi, P.S. - Kharik Bazar, District - Bhagalpur Presently Posted As Teacher In Middle School, Babhangama (Bihpur), Bhagalpur
2. Sitaram Hembrom Son Of Late Charar Hembrom Resident Of Village - Laxmipur Bela, P.S. - Sanokhar Hat, District - Bhagalpur, Presently Posted As Teacher In Middle School, Ekchari, Kahalgaon, Bhagalpur
3. Md. Alamgir Son Of Late Md. Subhen Ansari Resident Of Village - Sohayal, P.S. - Sanckhar, District - Bhagalpur, Presently Posted As Teacher In Middle School Dhanaura, Bhagalpur
4. Chandrashekhar Bankura Son Of Late Surya Nandan Mandal Resident Of Village - Gyanwati Tapuwa, P.S. - Pirpainti, District - Bhagalpur Presently Posted As Teacher In Primary School, Kaligunj, Bhagalpur
5. Dhruv Kumar Son Of Late Kailash Prasad Das Resident Of Village - Gangalday, Anadipur, P.S. - Kahalgaon, District - Bhagalpur, Presently Posted As Teacher In Primary School, Kashri, Kahalgaon, District - Bhagalpur
- 6 Binod Kumar Singh Son Of Late Yamuna Prasad Singh Resident Of Village - Khajuria, P.S. - Sanokhar, District - Bhagalpur, Presently Posted As Teacher In Primary School, Kurma, Ekchari, Bhagalpur
- 7 Santosh Kumar Jha Son Of Late Rajendra Prasad Jha Resident Of Village - Abharatanpur, P.S. - Bath (Sultanganj), District - Bhagalpur, Presently Posted As Teacher In Middle School, Echari, Kahalgaon, Bhagalpur
- 8 Arvind Kumar Mandal Son Of Late Naresh Prasad Mandal Resident Of Village - Mohanpur, P.O. - Khabarpur, District - Bhagalpur, Presently Posted As Teacher In Middle School, Ekchari, Kahalgaon, Bhagalpur
9. Md.Moin Uddin Son Of Late Md. Afzal Ahmad Resident Of Village - Simariya, P.O. - Simariya, P.S. - Nathnagar, District - Bhagalpur Presently Posted As Teacher In Primary School, Mohammadpur, Jagdishpur, Bhagalpur
10. Md. Sarwar Alam Son Of Late Juber Alam Resident Of Village - Sakrama (Tola Ashraf Nagar), P.S. - Sanhola, District - Bhagalpur, Presently Posted As Teacher In Primary School, Kashimpur, Bhagalpur
11. Prabhakar Prasad Son Of Late Devnandan Das Resident Of Village - Jagankirta, P.O. - Gajhanda, P.S. - Lalmatiya, District - Godda, Jharkhand, Presently Posted As Teacher In Primary School, Hardevchak, Pirpainti, Bhagalpur
12. Md. Qutubuddin Son Of Late Md. Amiruddin Resident Of Village - Ramdeo Chapra, P.S. - Ara Muffasil, District - Bhojpur, Presently Posted As Teacher In Primary School, Waligunj, Ara City
13. Rahul Pathak Son Of Late Gambhir Kumar Pathak Resident Of Village - Karnpur, P.O. - Karnpur, P.S. - Supaul, District - Supaul, Presently Posted As Teacher In Primary School, Budhanath, Sultanganj, Bhagalpur
14. Md. Arwar Sadat, Late Md. Shahabuddin Resident Of Village - Sajurg Harna, P.S. - Rajoun, District - Banka, Presently Posted As Teacher In Urdu Middle School, Lodipur, Sabor, Bhagalpur
15. Hemant Kumar Gupta Son Of Late Ram Vilay Gupta Resident Of Harpur Shahkund, District - Bhagalpur, Presently Posted At Middle School, Kolgama, Sultanganj, Bhagalpur
16. Sudhanshu Ranja Son Of Late Sudhir Prasad Singh Resident Of Village - Pildouri Gali No. - 5, P.S. - Sultanganj, District - Bhagalpur, Presently Posted As Teacher In Boy'S Middle School, Shahkund, Bhagalpur

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17. Devendra Kumar Son Of Late Jay Narayan Singh Resident Of Village - Phadaura, P.S. - Haweli Kharagpur, District - Munger, Presently Posted As Teacher In Primary School, Barbila, Sultanganj, Bhagalpur
 18. Mukesh Kumar Bharti Son Of Late Prahlad Prasad Mandal Resident Of Village - Kathoun, P.S. - Rajoun, District - Banka, Presently Posted As Teacher In Adarsh Middle School, Sultanganj, Bhagalpur
 19. Manoj Kumar Singh Son Of Hari Kishore Singh Resident Of Village - Amba, P.S. - Shahkund, District - Bhagalpur, Presently Posted As Teacher In Middle School, Kheraihiya Hariyo, Akbarnagar, Bhagalpur
 20. Pritam Kumar Thakur Son Of Late Vishnu Charan Thakur Resident Of Village - Masikpur, P.O. - Ratanpur, P.S. - Shahkund, District - Bhagalpur, Presently Posted As Teacher In Primary School, Misharpur, Sultanganj, Bhagalpur
 21. Shekhar Bhardwaj Son Of Late Chandan Kumar Choudhary Resident Of Village - Mauzmabad, P.S. - Bihpur, District - Bhagalpur, Presently Posted As Teacher In Middle School, Kanjhiya, Nathnagar, Bhagalpur
 22. Kumar Gourav Son Of Late Narayan Paswan Resident Of Village - Bikrampur, P.O. - Bihpur, P.S. - Bihpur, District - Bhagalpur, Presently Posted As Teacher In Middle School, Sahuparnatta, Naugachia, Bhagalpur
 23. Deepak Kumar Son Of Late Ashok Kumar Resident Of Village - Ganaura, P.O. - Narayanpur, P.S. - Narayanpur, District - Bhagalpur Presently Posted As Teacher In Adarsh Middle School, Naugachia, Bhagalpur
 24. Md. Sarfaraz Alam Son Of Late Md. Shamsad Resident Of Village - Samuniya, P.S. - Kharokanabar, District - Bhagalpur, Presently Posted As Teacher In Primary School, Athgama, Bihpur, Bhagalpur
 25. Md. Akram Ansari Son Of Late Md. Sagir Ansari Resident Of Dhruvganj, P.O. - Kharik Bazar, District - Bhagalpur, Presently Posted As Teacher In Primary School, Bhagwatipur, Bihpur, Bhagalpur
 26. Arun Kumar Singh Son Of Late Mrityunjay Prasad Singh Resident Of Village - Telghi, P.S. - Naugachiya, District - Bhagalpur, Presently Posted As Teacher In Middle School Bamangama, Bihpur Bhagalpur
 27. Shailesh Kumar Jha Son Of Late Niranjana Jha Resident Of House No - 180, Anandgarh Colony, Tilkamanjhi, P.S. - Barari, District - Bhagalpur, Presently Posted As Teacher In Middle School, Bahadurpur, Sabour, Bhagalpur
 28. Ravi Bhusan Kumar Sinha Son Of Late Sargen Mahto Resident Of Wakarchak, P.O. - Dighri, District - Lakhisarai, Presently Posted As Teacher In Primary School, Adarshnagar, Sultanganj, Bhagalpur
 29. Vimal Vibhuti Narayan Son Of Late Rupan Mandal Resident Of Mohanpur, Narma, P.O. - Champanagar, District - Bhagalpur, Presently Posted As Teacher In Middle School, Shrorampur, Nathnagar, Bhagalpur
 30. Anil Kumar Singh Son Of Late Ramdev Ram Resident Of B.A. - 6, Surya Mohan Thakur Road, Tilkamanjhi, P.S. - Barari, District - Bhagalpur, Presently Posted As Teacher In Primary School, Nagrah, Sanhauli, Bhagalpur
 31. Vibhuti Kumar Singh Son Of Suresh Chandra Singh Resident Of Kiranpur, Sultanganj, P.S. - Bath, District - Bhagalpur, Presently Posted As Teacher In Middle School, Deendayalpur, Shahkund, Bhagalpur
 32. Umesh Singh Son Of Late Ram Kishun Singh Resident Of Ghauri, P.O.- Kharau Kala, District - Bhojpur, Presently Posted As Teacher In Primary School, Masdi, Sultanganj, Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Human Resources Development, Government Of Bihar, Patna

2. The Secretary, Department Of Human Resources Development, Government Of Bihar, Patna
3. The Director, Education Department, Government Of Bihar, Patna
4. The Regional Deputy Director Of Education, Bhagalpur
5. The District Education Officer, Bhagalpur
6. The District Programme Officer (Establishment), Bhagalpur
7. The Regional Deputy Director Of Education, Bhojpur
8. The District Education Officer, Bhojpur
9. The District Programme Officer (Establishment), Bhojpur

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Om Prakash Singh
For The Respondent/S : Mr. AAG-13 A.K.Choudhary
Mr Anil Kumar Tiwari, AC to AAG 13

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 16-02-2016

There are 32 petitioners in the present writ application.

They have common intent and object of deriving benefit of matric trained scale from a prior date i.e. 1.10.2003 even though they have passed the training examination only in the year 2007.

The reason for these petitioners to demand such a relief is based on the submission and an observation made in CWJC No.7594 of 2007, disposed of on 10.12.2008 contained in Annexure-18. This order and observation is of a learned Single Judge which indicates that if the petitioners were not at fault and they were prevented from participation in the training examination, therefore, they cannot be denied the benefit of the trained scale from the date it became available to them.

The observation made by the learned Single Judge in



Annexure- 18 did not take into consideration an earlier Division Bench decision reported in **2001 (4) PLJR 285**, which is the case of Ahilya Devi v. State of Bihar. In addition to that, this kind of dispute had come before the High Court in a batch of writ applications, which was CWJC No.8032 of 1999 and other analogous cases which travelled to a Division Bench. The law came to be settled by a Division Bench only on 23.9.2010 in the case of **Chandra Kant v. State of Bihar, reported in 2010 (4) PLJR 732** as well as an order passed in LPA No.1459 of 2013, decided on 3.1.2014.

The observation of the learned Single Judge contained in Annexure- 18, therefore, cannot help the petitioners in any manner. The two decisions rendered by the Division Bench will govern the issue. Based on the two decisions, the authorities of the Education Department issued a resolution dated 5.1.2015, which is Annexure- A to the counter affidavit filed on behalf of the respondents. This resolution now governs the case of such claimants.

The circular clearly lays down that those candidates, who passed the examination in the first attempt for which examination was held in the year 2004, will derive benefit of matric trained scale monetarily from 1.10.2003 and those, who sat for the examination in the year 2007, will derive that benefit from 31.7.2007 i.e. date on which the examination for teachers was held. This matter now stands

settled and there is no scope for further argument or further interpretation as to when the benefit will accrue in favour of such teachers.

Since these petitioners have sat for the examination conducted in the year 2007 for which results have been declared in the year 2008, they cannot derive benefit from 1.10.2003 even though they could have passed the examination in the first attempt.

Keeping in view the two Division Bench decisions as well as a decision rendered by this Court in the case of ***Brajesh Kumar V. State of Bihar, reported in 2015 (3) PLJR 779***, the present writ application is dismissed for the reasons indicated above. Petitioners can only derive the benefit with effect from 31.7.2007.

(Ajay Kumar Tripathi, J)

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