

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3967 of 2014

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1. Nasiruddin Ansari son of Late Kairati Hussain, Resident of Village- Lahaldpur, P.O. Panditpur, Police Station- Janta Bazar, District- Saran (Chapra), at present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Lahladpur, Anchal- Lahladpur, District- Saran (Chapra)

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna
3. The Director, Primary Education, Bihar, Patna
4. The District Magistrate, Saran at Chapra
5. The Regional Deputy Director of Education, Saran Division, Chapra
6. The District Education Officer, Saran at Chapra
7. The District Programme Officer (Establishment), Saran at Chapra
8. The District Treasury Officer, Saran at Chapra
9. The District Accounts Officer, Saran at Chapra
10. The Block Education Officer, Lahladpur, District- Saran
11. The Headmaster-Cum-Drawing And Disbursing Officer, Govt. Upgraded Middle School Lahladpur, Anchal- Lahladpur, District- Saran (Chapra)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. UMESH KUMAR MISHRA

For the Respondent/s : Mr. GP-13 NASIM YAHYA

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 16-02-2016

The matter raised by the present petitioner has already been answered in a previous adjudication, which was the case of **Brajesh Kumar and others Vs. State of Bihar and others**, reported in **2015 (3) PLJR 779**. Para 16 and 17 of the said decision are quoted herein below.

“16. There cannot be any quarrel with the stand of the State with regard to all such candidates who either failed in the examination conducted in the year 2004 in the entirety or just did not to sit or got expelled from the examination

conducted in the year 2004. Such candidates cannot be treated to be candidates, who “attempted” to pass the training examination. Since grant of matric-trained-scale is integral to passing of training examination, no candidate, therefore, can claim as a matter of right grant of matric-trained-scale without actually passing the examination in toto.

17. Those, who passed the training examination by sitting in examinations held in the year 2007, would be treated to be candidates, who have passed the examination in the second attempt. For them, the State Government has extended the benefit from the date of the examination, i.e., 31.7.2007. But in the case of such candidates who had failed in only one or two papers in the 2004 examination and were allowed to appear in the year 2007 as a compartmental candidate, their case falls in different class. By understanding of the word “compartment” and the various regulations, rules and directives in relation to conduct of compartmental examination, there is no other view except one that a compartmental examination is part and parcel of the main examination and they are like conjoint twins.”

In the present case, petitioner was expelled from the examination which was held in the year 2004 on the ground of cheating and using unfair means. It is only when he cleared the examination in second attempt that a right in his favour for grant of Matric-Trained-Scale arose. By what understanding of law and interpretation petitioner is required to be treated to have passed in the first attempt is not understood by this Court.

Petitioner, therefore, will draw advantage of the matric

trained scale from 31.7.2007 as has already been noticed and decided by this Court in the case of **Brajesh Kumar** (supra). However, the question of recovery will remain in abeyance for the time being till a decision is rendered in LPA No. 516 of 2015.

Writ application is dismissed.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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