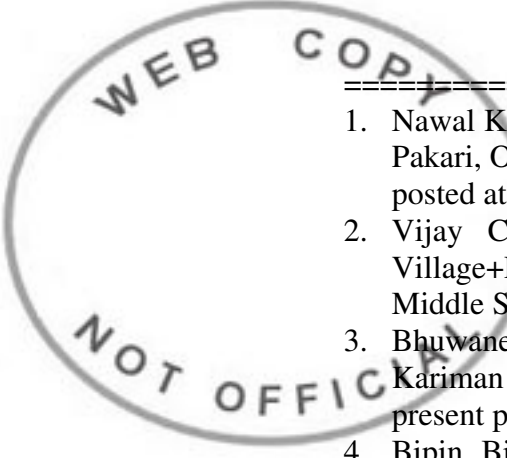


IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1224 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 3481 of 2015

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1. Nawal Kishore Tiwary, son of late Ram Singhasan Tiwary, Resident of Village-Pakari, Old Post Office, Nawada at Ara, District Bhojpur, Pin- 802301, at present posted at Upgraded Middle School Salempur koelwar, Bhojpur.
 2. Vijay Choudhary, son of late Ram Awadesh Choudhary, Resident of Village+P.O- Belaur, P.S. Udwant Nagar, District Bhojpur at Present Posted as Middle School Sarathuwan, Udwant Nagar, District Bhojpur.
 3. Bhuwaneshwar Panday, son of late Paras Nath Pandey, Resident of Vill-Kariman Thakur Ke Dera, P.O. Laxmi Ke Dera, via Shahpur, Dist-Bhojpur, at present posted as Middle School Karnamepur, Shahpur, Dist Bhojpur.
 4. Bipin Bihari Choubey, son of late Jagdish Choubey, Resident of Village Ankodhi, P.O. Baruhan, P.S. Bagengola, Dist Buxar, Pin - at present Posted as Middle School Kasap, Udwant Nagar, Dist Bhojpur.
 5. Priyranjan, son of late Sheojee Choudhary, Resident of Vill+P.O. Parasiya, P.S Jagdishpur, Dist- Bhojpur, at present posted as Middle School Karwan Ara, Muffasil (South) Dist Bhojpur.
 6. Rakesh Ranjan, son of late Budhdeo Pandit, Resident of vill- Moapkhurd, P.O- Khuthan, Dist-Bhojpur, at present posted as Upgraded Middle School Kasap, Ward -4, Udwant Nagar, Dist-Bhojpur.
 7. Tiwary Kumud Ranjan Kishore, son of late Niwas Tiwary, Resident of Village+P.O. Siyadiah, P.S. Charpokhary, Dist Bhojpur, at present posted as Middle School Udwant Nager, Dist Bhojpur.
 8. Chandra Shekhar Mishra, son of late Mohan Mishra, Resident of Village- Anua, P.O. Ekwari, P.S. Sahar, Dist Bhojpur at present posted as Middle school Kulhriya (Block) Koelwar Dist Bhojpur.
 9. Quazi Md. Imran, son of late Quazi Md. Mazahar, resident of Mohalla- Milki, P.O. & P.S. Town Thana, Ara, Dist Bhojpur at Present Posted as Urdu Primary School Singhi Kala, Ara Nagar.
 10. Prasidh Narayan Mishra, son of late Shree Nandan Mishra, resident of Village-Sheochak, (Mishri Chack), P.O. Nawada, P.S Sahar, Dist.-Bhojpur, at Present posted as Upgraded Middle School Piprahiya, Ara Muffasil (South) Dist Bhojpur.
 11. Mukesh Kr. Mishra, son of late Manan Mishra, resident of Village+P.O. Hematpur, Vaya Jagdishpur, P.S Tiyar, Dist Bhojpur, at Present posted as Upgraded Middle School Laxmanpur, Ara Muffasil (South) Dist Bhojpur.
 12. Jitendra Kumar Singh, son of late Girija Nandan Singh, Vill- Jadopur, P.O. Pirauta, P.s Ara (Muffasil), Dist-Bhojpur, at present posted as Amar Adarsh Middle School Ramgaridhya.
 13. Niranjana Kumar, son of late Suradeo Singh, resident of Village- Jethwar P.O. Jethwar, P.S. Tarari, Dist Bhojpuri, at present posted as Primary School khajuata, Udwant Nagar, Dist Bhojpur.
 14. Dharendra Kumar Singh, son of late Ramnath Singh, resident of Village +P.O. Sedhan, P.S Tarari, Dist Bhojpur at Present Posted as Middle School, Beldihari, P.o. Basauri, P.S. Sikarahta, Tarari, Dist- Bhojpur.
 15. Gorakh Upadhyay, son of late Dinanath Upadhyay, resident of Village+P.O. Nonar, P.S Piro, Dist Bhojpur, at present posted as Middle School Pachrukhiya, Piro, District-Bhojpur.
 16. Sanjay Kumar Dewansu, son of late Viveka Nand Singh, resident of Village-

Darsan Chhapra, P.O. Bichhion, P.S. Udwant Nagar, P.S Dist- Bhojpur, at present posted as Upgraded middle School, Chakiya, Udwant Nagar, Bhojpur.
17. Kumar Arvind, son of late Banke Bihari Roy, Resident of Village Karma, P.O. Dhawani Karakat, P.S. Godari, District Rohtas, at present posted as Middle School Nawada Ben, Udwant Nagar, Bhojpur.

.... Petitioners- Appellants

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Join Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
3. The Director, Primary Education Department, Govt. of Bihar, Patna.
4. Regional Deputy Director of Education, Government of Bihar, Patna.
5. The District Programme Officer (Establishment) Bhojpur.
6. The District Education officer, Bhojpur.

.... Respondents-Respondents

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Appearance :

For the Appellants : Mr. Mukul Sinha, Advocate
Mr. Rajesh Kumar, Advocate

For the Respondents : Mr. Anil Kumar Singh, A.C. to S. C.-21

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 18-08-2016

The order dated 8th of May, 2015 passed by the learned Single Bench is subject matter of challenge in the present Letters Patent Appeal wherein, the claim of the appellants to treat them having passed the examination along with other candidates in the year 2004 was not accepted.

2. The appointment of the appellants is governed by Bihar Elementary School Teachers Appointment Rules, 1991. Rule 11 of the Rules read as under: -

“11 (i) Candidates possessing the training shall be appointed in the matric trained scale.

(ii) Candidates who are untrained shall be appointed in matric untrained scale with the following conditions:

- (a) If they do not join the training, when commissioned for in- service training, without sufficient reason, their services shall be terminated.
- (b) After training, an examination shall be held and those candidates who fail therein will be afforded another opportunity, but if they fail again, their services shall be terminated.
- (c) During the period of training the appointees shall be paid only a stipend.
- (d) After passing the examination mentioned in (b), matric trained scale shall be granted.”

3. Admittedly, the first training session was organized in the year 2000 after coming into force of the Rules. After completion of the training, the examination was held in the year 2004. The appellants claim parity with the candidates, who have qualified the training examination held in the year 2004.

4. The appellants claim to have been appointed between the year 1999 to 2002. The candidate appointed on or after 2000 could not have claimed right of training as none were in service in the year 2000 when the first training was held. The candidates appointed in the year 1999 possibly could allege that they could have been sent for training. Only Vijay Choudhary was appointed on 13.11.1999 that is almost at the end of the year 1999. Therefore, he could not legitimately be sent for training in the year 2000.

5. Still further, the next training was held in the year 2006. The appellants got training and qualified the examination which was held in the year 2007. They have been given benefit of the pay scale of Matric trained scale after qualifying the examination in the year 2007.

6. Since, the Appellants could not undergo training in the year 2000, therefore, they cannot claim any parity with such candidates who have undergone such training and qualified the examination in the year 2004. The first chance of the Appellants was in the year 2006 when they have completed training and qualified examination thereafter.

7. Therefore, we do not find any error in the order passed by the learned Single Bench which warrants interference in the present Letters Patent Appeal. The same is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	
CAV DATE	N. A.
Uploading Date	22.08.2016
Transmission Date	