

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10743 of 2013

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1. Sheela Kumari Wife Of Sri Sachida Nand Sinha Resident Of Flat No. 109/400,
Road No. 1, Mohalla- Rajbanshi Nagar, P.S.- Shastri Nagar, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar Through The Human Resources Development Department,
Government Of Bihar, Patna
2. The Human Resources Development Department, Government Of Bihar, Patna
3. The Principal Secretary, Education Department, Government Of Bihar, Patna
4. The Director, Secondary Education, Government Of Bihar, Patna
5. The Regional Deputy Director, Patna Region, Patna
6. The District Programme Officer (Establishment), Patna
7. The District Education Officer, Patna
8. The Principal, B.N.R. Training College, Gulzarbagh, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Durga Nana Jha, Mr. Jyoiti Nandan Jha, Advocate.
For the State	:	Mr. G.P. Ojha, GP 22 Mr. Praveen Kumar, AC to GP.22

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-05-2016

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

In the present writ petition, petitioner is seeking relief of
B.A. trained pay scale.

The petitioner was appointed on 18.12.1978 on the post of
Dance teacher at Primary Teacher Training College (Music
Center), Lakhisarai on the pay scale of I.A. trained. Claim has
been made that persons who were appointed later on have been
given promotion in Subordinate Education Service and B.A.

trained in normal course but even after recommendation by the competent authority her case was not considered though she always discharged her duties to the satisfaction of senior authority. She came on transfer to the B.N.R. Training College, Gulzarbagh, Patna and working there. The qualification of the petitioner is B.A., B.Ed. trained and Prabhakar in Dance.

The Director (Secondary Education), Bihar considered the case of the petitioner vide letter no.560 dated 2.12.1994, recommended for promotion to the School Inspectress Bihar, Patna for her promotion to the Bihar Education Service but she was not given promotion.

Again the matter moved here and there but no positive step was taken by the respondent authority. The School Inspectress wrote a letter to the Director Secondary Education dated 8th July, 1998 requesting that her services should be merged with the Bihar Education Service, should be given the pay scale of B.A. trained and merger will be treated to be a promotion.

Learned counsel for the petitioner submits that large numbers of juniors have been granted promotion to the Bihar Education Service during the period 1978 to 1995 but her case was always ignored.

The State has taken a plea in the counter affidavit that

Subordinate Education Service has been merged with the Bihar Education Service Grade II and they all become the members of the Bihar Education Service. In such circumstances she can only be given pay scale of B.A. trained scale.

Having considered the rival contentions of the parties, certain facts before merger has to be scrutinized, as the Government took a policy decision for merger, accordingly, the Government merged the Subordinate Education Service with the Bihar Education Service Grade II. The merger was challenged by some of the teachers, the matter went to the Hon'ble Supreme Court, finally the merger was approved by the Hon'ble Supreme Court. Later on the Government has again taken a decision for de-merger, the same was challenged before this Court unsuccessfully up-to Division Bench but the Hon'bel Supreme Court set aside the decision of this Court and policy of de-merger was quashed.

In such view of the matter, finally Bihar Subordinate Education Service has been merged with the Bihar Education Service Grade II. It appears from the record that post of Dance Teacher was not available in Bihar Education Service Grade II but she has been ignored for B.A. trained pay scale. She is entitled to B.A. Trained scale as she possess requisite

qualification in as much as Principal and Inspectress of School have given recommendation in her favour.

In such view of the matter, This Court directs the State Government to give benefit of B.A. trained scale to the petitioner from the date of her juniors.

For convenience, petitioner is directed to file a representation along with a copy of this order to the Principal Secretary, Education Department, Government of Bihar, Patna and Principal Secretary will examine her case and pass a reasoned order within a period of three months from the date filing the representation.

With the aforesaid observations this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	30.5.2016
Transmission Date	