

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.24867 of 2013

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1. Madhurendra Kumar Madhup S/O Dr. Kailash Prasad Singh Resident Of Mohalla- Mazar Gali, Sheikhpur, Post- Veterinary College, Patna- 800014, Presently Posted As Assistant Teacher In Primary School Shanti Nagar, Maner, Patna

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Education, Government Of Bihar, New Secretariat, Patna
2. The Director, Primary Education, New Secretariat, Patna
3. The Regional Deputy Director Of Education, Patna Division, Patna
4. The District Education Officer-Cum-Chairman, District Education Promotion Committee, Patna
5. The District Programme Officer (Establishment), Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarendra Kumar, Advocate

For the State : Mr. Rakesh Prabhat, AC to SC 21

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 19-10-2016

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

In the present writ petition, petitioner is seeking relief for granting B.Sc.(Trained) teacher scale as he has claimed that though on inter district transfer he lost seniority but did not loose experience/eligibility.

Petitioner was appointed as a teacher in another district but he filed an application for transfer, on transfer to Patna district his position has been brought much below but his



experience/eligibility remained intact. He has submitted that though the persons up-to 81 have been promoted but respondent has adopted a wrong method de hors to the provisions of Rules 3, 5, 8 and 11 of Bihar Nationalized Elementary School Teachers Promotion Rule, 2011 (hereinafter referred to as Rule 2011) as they were required to prepare the merit list on the basis of the vacancy available by 31st December of each year and whoever comes under the Zone of consideration their cases will be considered and accordingly he should be given the benefit. He has further submitted that certain teachers who does not have a requisite qualification of experience have been declared senior to him whereas he has requisite qualification and also comes under the zone of consideration. He has further submitted that consideration of promotion should have been considered preparing the merit list yearly wise i.e. in the year 2012, 2013 and 2014 but his case was not considered. Even in the list of year 2015 his name is not standing.

Learned counsel for the State submits that it is an admitted fact that position of the petitioner is much below in the merit list, an employee can not be given promotion unless he satisfy two conditions, first he must have requisite experience and second he must come under the zone for consideration. Though petitioner

has requisite qualification but his position is at sl. No. 209. Whenever his turn will come his case would be taken into consideration. He has fairly submitted that there is no need to file an application seeking relief only then the case for promotion will be considered.

In view of the provision of promotion Rule it is clear that respondent authority will prepare two separate list of Science and Arts Graduate. Promotion would be granted from grade I and II of matric trained candidate. If trained teachers of grade I and II are not available and those who have requisite experience falling in grade III, will be considered for promotion for graduate trained scale. Respondent has prepared seniority list of matric trained science teachers and matric trained arts teachers and from there promotion has to be granted in their respective graduate scale. It postulates that those who are in grade III must complete eight years of service will be eligible for promotion. Rule 11 also says that each year a fresh merit list will be prepared taking into consideration the vacancy position as on 31st December of each year and the person who comes under the zone of consideration will be given promotion subject to the condition that he must satisfy the requisite qualification as well as seniority. In the matter of considering promotion there is no need for any person

to file an application and only then his case will be considered.

In this view of the matter, this Court directs the respondents to prepare the seniority list on yearly basis and who ever satisfied the aforesaid two conditions should be given the benefit of promotion in BA and B.Sc trained scale.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
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