

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8339 of 2013

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1. Brajesh Pratham S/O Late Kesho Ram R/O Village+Post- Ushri Bazar, Ushri, P.S.- Mehanaka, Distt.- Jehanabad
 2. Binesh Prasad S/O Rajdeo Prasad R/O Village- Amrashi Bigha, Post- Marandha, P.S.- Gurha, Distt.- Gaya

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principle Secretary Education Department, Government Of Bihar, Patna
3. The Director, Primary Education Government Of Bihar, Patna
4. The District Education Officer, Gaya
5. The District Programme Officer (Establishment), Gaya
6. The Block Education Officer, Sherghati, Gaya
7. The Headmaster Manorama Kanya Midle School, Sherghati, Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. Sanjay Kumar Singh, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 23-06-2016

Repeatedly this case was called for two days but, no one appeared for the petitioners. Today also, learned counsel for the petitioners is not present. In such circumstances, there is no other alternative option for this Court but to dispose of the case on the basis of material available on record and the assistance given by the learned counsel for the State.

Learned counsel for the State has submitted that he had to serve the copy of the counter affidavit upon the learned counsel for the petitioners but, he refused to accept the same on the ground that

his clients have already taken away his file for appointment of another lawyer and obtained No Objection Certificate from him.

In the present case, the petitioners are claiming a relief by way of direction for payment of difference of salary from 1.10.2003 to March, 2012 on account of re-fixation of salary in the matric trained scale.

As per claim of the petitioners, the petitioner no.1 was appointed as Teacher in matric untrained scale on compassionate ground by the District Superintendent of Education, Gaya vide Memo No. 4342 dated 31.12.1998 and was posted in the Primary School, Gopalpur, Sherghati, Gaya. The petitioner no.2 was appointed on the post of Teacher on matric untrained scale by the Bihar Public Service Commission, vide Memo o. 4541 dated 15.11.1999 issued by the District Superintendent of Education, Gaya thereby posted him in Primary School Ghaghar, Sherghati, Gaya. During the tenure of service, both the persons have enhanced their qualification up to Graduation level. They also received training in service and vide Government resolution no. 790 dated 29.7.2011, the pay of the petitioners was revised in the Matric Trained Scale with effect from 1.10.2003 and, thereafter, in the light of Finance Department Resolution No. 630 dated 21.1.2010 from 1.1.2006 to 1.4.2007 the pay scale of the petitioners were revised in pay band of Rs. 4200/-.



Learned counsel for the petitioners has placed reliance on the letter no. 122 dated 10.2.2012 which provides that the person who has enhanced the qualification will be paid the trained scale. The D.D.O. of the Middle School, Gaya also recommended for granting the trained pay-scale from 1.10.2003. The petitioners have filed representation for payment of arrear of salary and claimed that they are entitled for arrear of the salary.

Learned counsel for the State has relied upon the resolution by which it has been shown that in view of the Bihar Primary Teacher Recruitment Rule, 1991, those who have been appointed in the year 1994 or prior as untrained teacher and teachers during that period or later on they become trained, will be given notional benefit of regular trained scale for the period 5.9.1999 to 30.9.2003 and actual payment would be made from 1.10.2003 onwards. In view of the resolution, the learned counsel for the State has submitted that the petitioners have no case for claiming the difference of arrears of salary but, in the present case, the petitioners have claimed difference of salary from 1.10.2003 to March, 2012.

In that view of the matter, the petitioners are directed to file a detailed representation before the District Programme Officer (Establishment), Gaya who will consider the case of the petitioners and pass a reasoned order in accordance with law.

With the aforementioned observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.7.2016
Transmission Date	NA