

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2851 of 2013

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Shashi Kiran Kumar Choudhary son of Shri Brij Nandan Choudhary R.o-
village Sarifabad, PO-Atma, PS-Islampur, District-Nalanda.
..... Petitioner.

Versus

1. The State of Bihar through the Principal Secretary, Education
Department, Government of Bihar, Vikash Bhawan, New Secretariat ,
Patna.
 2. Director, Primary Education, Education Department, Government of
Bihar, Vikash Bhawan, New Secretariat, Patna.
 3. Regional Deputy Director of Education, Patna Division, Patna.
 4. District Education Officer, Nalanda.
 5. District Programme Officer, Nalanda, Respondents.
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Appearance :

For the Petitioner/s : Mr. Shivendra Kishore, Sr. Advocate
For the Respondent/s : Mr. Prabhat Kumar, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

4 11-01-2016 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner is assailing the manner he has been
treated, as junior, has been granted B.A.Trained scale but he has
been illegally left out.

The short fact of this case is that the petitioner
alongwith Manoj Kumar Chaudhary and others have applied for
the post of Teacher in Primary School in pursuance of
advertisement of the year 1996. Both of them have been declared
successful by the Bihar Public Service Commission for their
appointments and in the recommendation, the petitioner was
shown at serial No. 410 where Manoj Kumar Chaudhary was



shown at serial No. 414, accordingly, both were appointed vide order dated 11.12.1999 (Annexure-1 to the writ petition. There also the seniority position has been mentioned. Later on, the petitioner alongwith Manoj Kumar Chaudhary were sent for training vide letter dated 15.05.2000 (Annexure 2 to the writ application) after completion vide letter dated 21.06.2001, they were posted to their respective schools seniority of both has been mentioned. The petitioner is at serial No. 410 whereas Manoj Kumar Chaudhary has been shown at serial No. 414, later on, the Government of Bihar issued the seniority list for the purposes of granting the B.A.Trained scale vide seniority list dated 23.11.2012 where the petitioner has been shown junior to Manoj Kumar Chaudhary. The petitioner has raised the grievance that his seniority has wrongly been fixed by Commission. The seniority position cannot be changed at subsequent stage, save and except, otherwise if any person has been visited with any adverse order affecting his seniority otherwise seniority recorded at this first entry by Public Service Commission will remain same without alteration. Manoj Kumar Chaudhary has been promoted vide letter dated 29.11.2012 (Annexure '6') and has been given B.A.Trained scale and the petitioner has been left without any consideration.

A counter-affidavit has been filed by the State. In



paragraph No. 5 it has been stated that petitioner is at serial No. 651 in Graduates Arts Category, his candidature will be considered in next Departmental Promotion Committee. Government has stayed meeting vide Personnel and Administrative Department contained in Memo No. 11218 dated 12.08.2014 in view of order passed in C.W.J.C. No. 19114 of 2012 granting order of stay for further promotion and as such, the case of the petitioner could not be taken into consideration.

Learned Counsel for the petitioner submits that the said writ application vide C.W.J.C. No. 19114 of 2012 has been disposed of and so much so, the LPA preferred has already been disposed of and finally, the matter is pending before the Hon'ble Supreme Court for its consideration and as on today there is no order stay of any Court.

The matter is pending for consideration before the authority concerned. Admittedly, Manoj Kumar Chaudhary is junior to the petitioner has been granted promotion.

It goes without saying that in terms of Articles 14 and 16 of Constitution of India senior can not be deprived of the same benefit as what has been given to junior.

In such view of the matter, this Court directs the

respondent to examine the representation of the petitioner and take a positive decision within a period of six months from the date of receipt / production of a copy of this order.

With the above observations and directions, this writ petition stands disposed of.

It goes without saying that the senior will get promotion, at least from the date of promotion has been granted to junior, with all consequential benefit.

(Shivaji Pandey, J)

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