

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11052 of 2017

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1. Ram Bilas Rai, Son of Sri Jagan Rai, Resident of Village and P.O. Bajitpur, P.S.- Paroo, District- Muzaffarpur, presently posted as Headmaster, Up-graded Middle School, Mangurahiya, Anchal- Paroo, District- Muzaffarpur.
 2. Umesh Thakur, Son of Jangi Thakur, Resident of Village and P.O.- Madhaul, P.S.- Saraiya, District- Muzaffarpur presently posted as Headmaster, Up-graded Middle School, Fanda, Anchal- Paroo, District- Muzaffarpur.
 3. Basudeo Paswan, Son of Late Yugal Paswan, Resident of Village and P.O. Gariba, P.O. and P.S.- Paroo, District- Muzaffarpur, presently posted as Headmaster Nationalized Middle School, Paroo Girls, Anchal- Paroo, District- Muzaffarpur.
 4. Neeraj Kumar, Son of Late Jawahar Lal Gupta, Resident of Village and P.O.- Jaitpur, Anchal- Paroo, District- Muzaffarpur, presently posted as Headmaster, Nationalized Middle School, Bajitpur Gijas, Anchal- Paroo, District- Muzaffarpur.
 5. Harishankar Prasad, Son of Late Jagdeo Rai, Resident of Village- Dhengpur, P.O.- Bahdinpur, P.S.- Paroo, District- Muzaffarpur, presently posted as Headmaster Nationalized Middle School, Bahdinpur, Anchal- Paroo, District- Muzaffarpur.
 6. Amarjeet Kumar, Son of Late Pashupati Prasad, Resident of Village- Jagannathpur Nagwan, P.O.- Chhap, P.S.- Paroo, District- Muzaffarpur, presently posted as an Assistant Teacher, Upgraded Middle School, Salahpur Kataru, Anchal- Paroo, District- Muzaffarpur.
 7. Niranjana Kumar Singh, Son of Late Deo Narayan Singh, Resident of Village and P.O. Baradaud, P.S.- Paroo, District- Muzaffarpur, presently posted as an Assistant Teacher, Middle School, Chochahi, Anchal- Paroo, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The District Education Officer, Muzaffarpur, District- Muzaffarpur.
5. The District Programme Officer (Establishment), Muzaffarpur, District- Muzaffarpur.
6. The Treasury Officer, Muzaffarpur, District- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S. B. K. Mangalam, Advocate
For the State : Mr. Madanjeet Kumar, G.P. 20

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 16-08-2017

Heard learned counsel for the parties.



2. The petitioners have moved the Court for the following reliefs:

*“(I) For issuance of an appropriate writ in the nature of **CERTIORARI** for quashing the letter dated 19.04.2017 issued under the signature of the Respondent no. 5 and contained in his memo no. 2263 dated 19.04.2017 whereby and where under the Respondent no.. 5 has been pleased to direct to revise the pay-fixation of petitioners in the light of Finance Department Resolution No. 630 dated 21.01.2010 as also for recovery of excess payment, if any, paid to the teacher.*

*(II) For issuance of an appropriate writ in the nature of **MANDAMUS**, commanding and directing the Respondent Authorities to consider the petitioners’ case for promotion to the post of Trained Graduate Pay-Scale and the Headmaster of Middle Schools in view of the provisions contained under the Bihar Taken Over Elementary School Teachers Promotion Rules, 1993 on the ground that if the writ petitioners were granted Matric Trained Teachers Pay-Scale with effect from 05.09.1999, they became entitled for grant of Trained Graduate Pay-Scale with effect from 05.09.2007 in view of the Bihar Taken Over elementary School Teachers Promotion Rules, 1993 and for their promotion to the post of Headmaster of Middle Schools with effect from 05.09.2011 in view of the provisions contained under Rule-9 of the Elementary School Teachers Promotion Rules, 2011.*

(III) For issuance of any other appropriate writ/writs, order/orders, direction /directions for which the writ petitioners would be found entitled under the facts and circumstances of the case.”

3. At the very outset, it has been submitted that the impugned order stands quashed by judgment and order dated



07.08.2017 in C.W.J.C. No. 10141 of 2017.

4. In view of the fact that the petitioners are identically situated to the petitioners of C.W.J.C. No. 10141 of 2017, the present writ application also disposed off in similar terms with similar directions as follows:

*“5. In view of the aforesaid, the order contained in Memo No. 2263 dated 19.04.2017, stands set aside on the short point of there being violation of principles of natural justice, to the extent of consequential action taken against the present petitioners. Their matters shall be reconsidered by the authorities in accordance with law in terms of the relevant Rules as well as the order of the Court in the case of **Ram Nath Prasad Singh** (supra).*

6. The petitioners shall represent before the respondents no. 4 and 5 within three weeks from today, along with a copy of this order and the concerned respondents shall take a final decision within two months thereafter. If no such representation is filed within the time stipulated, the authorities shall proceed and pass final orders on the merits of the matter, in accordance with law and observations made in this order. It is made clear that the Court has not expressed any opinion on merits.”

(Ahsanuddin Amanullah, J.)

P. Kumar

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