

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17620 of 2011

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1. Smt. Kumari Nivedita W/O Sri Chandra Bhushan Prasadsingh R/O Vill. +P.O- Simariya, P.S. Barauni, Distt. Begusarai At Present Asstt. Teacher In Sri Hari Ganga Tantra Lata Sanskritochha Vidyalalaya, Simariya, Begusarai
 2. Ajendra Prasad Yadav S/O Late Bholu Yadav, Vill. of Bariyahi, P.O. Rupnagar Ghat, P.S. - Barauni, Distt. Begusarai at Present Asstt. Teacher In Sri Hari Ganga Tantra Lata Sanskritochha Vidyalalaya, Simariya, Begusarai

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary/Commissioner Prathmik Madhyamik and Adult Education, Govt. of Bihar, Patna
2. Addl. Secretary Prathmik Madhyamik And Adult Education, Govt. Of Bihar, Vikash Bhawan, Patna
3. The Special Director, Secondary Education In-charge Sanskrit Education , Govt. Of Bihar, Vikash Bhawan, Patna
4. The Bihar Sanskrit Shiksha Board Boring Canal Road, Patna
5. The Chairman, Bihar Sanskrit Shiksha Board, Boring Canal Road, Patna
6. The Secretary, Bihar Sanskrit Shiksha Board, Boring Canal Road, Patna

.... Respondent/s

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Appearance :

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

For the Respondent/s : Mr. Rakesh Kr Samrendra Sc21

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 08-04-2017

Heard learned counsel for the petitioners, respondents-

State and Bihar Sanskrit Shiksha Board.

The present writ application has been filed for quashing of the order contained in Memo No.1056 Patna dated 21.12.1995 issued under the signature of respondent no.2 (as contained in annexure-9) whereby and whereunder the departmental letter no.957 dated 18.11.89 contained in Annexure-4 has been cancelled and for



further quashing of the letter no.102 Patna Dated 29.01.99 contained in Annexure-10 issued under the signature of respondent no.3 so far as it relates to the petitioners whereby and whereunder the petitioners' claim for payment of their salary has been rejected. Further prayer has been made for direction to the respondent authorities to make payment of arrear of salary as well as current salary along with all other admissible allowance.

The petitioners were appointed as Assistant Teachers in Prathmik unit of Sri Hari Ganga Tantra Lala Sanskritochha School, Simariaya in the District of Begusarai. Petitioner no.1 was appointed by the Managing Committee vide its order dated 19.03.1981 in Prathmik unit of the school on the basis of the advertisement and interview dated 02.03.1981. Consequently petitioner no. 1 joined on 24.03.1981. Petitioner no.2 was also appointed on the basis of the said advertisement on the order of the Managing Committee of the school and was working in Prathmik unit of the school since 02.03.1981. The petitioners' appointment as Assistant Teacher in Prathmik unit of the school were duly confirmed and approved by the Managing Committee of the school. The Bihar Sanskrit Shiksha Board also approved appointment of the petitioners. The State government granted sanction of two units in each of the 60 non-government recognized Sanskrit High School and Sanskrit Middle



School for starting primary/elementary education, in addition to already sanctioned strength of 1296 units. The petitioners' school was one of sixty schools and its name appeared at Sl. No.2 in the list-II issued vide Memo No. 957 dated 18.11.1989 contained in Annexure-4. The Additional Secretary, Prathmik, Madhyamik and Adult Education, Govt. of Bihar, issued office order vide memo no.1056 Patna dated 21.11.1995 whereby and whereunder the additional posts created and sanctioned by the State Government vide Department Memo No.957 dated 18.11.89 was cancelled and it was also decided that the grant will not be payable to such working teachers w.e.f. 18.12.89. The said letter as contained in Annexure-9 is under challenge in the present writ application.

Learned counsel for the petitioners has brought the attention of this Court to Annexure-17, which has been brought on record by way of supplementary affidavit whereby Memo No. 4146 dated 08.10.2015 issued by the Secretary, Bihar Sanskrit Education Board, Patna is to the effect that vide Departmental Memo No. 957 dated 18.11.1989 two additional primary teachers unit posts were sanctioned but the same was subsequently cancelled vide Departmental Memo No.1056 dated 21.12.1995, but since the said Memo dated 21.12.1995 has been quashed by the Hon'ble High Court vide order dated 11.08.2011 passed in C.W.J.C No. 7729 of



1996 (Ram Prasad Kamti & Ors vs State of Bihar & Ors) hence the initial letter dated 957 dated 18.11.1989 has revived again.

Hence, as a consequence, if the teachers were duly appointed against the sanctioned posts and if they are working and their services have been approved, they are entitled for their salary from the date of their approval of the appointment.

In view of the discussions made above, the writ application is disposed of since part of the prayer made in writ petition has become infructuous in view of the order as contained in Memo No.1056 dated 21.12.95 being already quashed by a Bench of this Court and the same has not been challenged by the respondent authorities. So far as the payment part is concerned, let the respondent-authorities pass appropriate order in view of Memo No.4146 dated 08.10.2015 as contained in Annexure-17 to the supplementary affidavit preferably within a period of three months from the date of receipt/production of a copy of this order.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.04.2017
Transmission Date	NA

