

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5231 of 2017

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1. Mahesh Prasad, Son of Sri Ram Nath Prasad, Resident of Village- Mangakarkar, Police Station- Rudrapur, District- Deoria, (U.P.), Retired Headmaster, Paharichak Balika High School, Saran (Bihar).
 2. Bal Krishna, Son of Sri Nanhu Prasad, Resident of Village- Bhaluhi, Madari Patti, Police Station- Kasia, District- Kushinagar, (U.P.), Retired Headmaster, Jairam Prasad Tiwary School, Dahi Bhatta, Gopalganj (Bihar).
 3. Brinda Lal Prasad @ Binda Prasad Son of Sri Tola Prasad, Resident of Village- Pipara Dixit, Police Station- Bhatani, District- Deoria (U.P.), Retired Headmaster, High School Ujanay, Siwan (Bihar).
 4. Ramanand Prasad, Son of Sri Komal Prasad, Resident of Village- Naghara, Police Station- Kufundu, District- Deoria, (U.P.), Retired Headmaster, Shyam Lal Jain High School, Darauli, Siwan (Bihar).
 5. Rambriksh Prasad, Son of Sri Ladan Prasad, Resident of Village- Bakulahar Kala, Police Station- Patherwa, District- Khushinagar (U.P.), Retired Headmaster, G.A. High School, Kateya Gopalganj (Bihar).
 6. Sri Ram Kunwar, Son of Sri Kharbhan, Resident of Village- Majhwara, Police Station- Ghoshi, District- Azamgarh (U.P.), Retired Headmaster, Sampat Raj Devi Kanya High School Kursheela, Katihar, Bihar.
 7. Kamta Prasad, Son of Sri Sabhai Ram, Resident of Village- Chhataripur, Police Station- Kerakat, District- Jaunpur (U.P.), Retired Headmaster, National High School, Kishanganj (Bihar).
 8. Bishwanath Prasad, Son of Late Ram Kishun Prasad, Resident of Village- Badalpatti, Police Station- Kuber Ashthan, District- Khushinagar (U.P.), Retired Headmaster, Mukhi Ram High School, Thawe, Gopalganj, (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Joint Secretary, Education Department, Government of Bihar, Patna.
4. The Director, Secondary Education, Government of Bihar, Patna.
5. The Deputy Secretary, Education Department, Government of Bihar, Patna.
6. The Regional Deputy Director of Education, Saran Pramandal, Chapra.
7. The Regional Deputy Director of Education, Purnea Pramandal, Purnea.
8. The District Education Officer, Saran at Chapra District.
9. The District Education Officer, Gopalganj. null null
10. The District Education Officer, Siwan.
11. The District Education Officer, Katihar.
12. The District Education Officer, Kishanganj.
13. The Accountant General, Bihar, Birchand Patel Path, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Siya Ram Sahi, Mr. Vishwambhar Prasad, Advocates
For the State	:	Mrs. Binita Singh SC-28, Mr. Vivek



For the A.G., Bihar : Anand Amritesh, AC to SC-28
Mr. Raghwanand, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL ORDER

6 21-12-2017 Learned counsel for the petitioners, State and Accountant General have assisted the Court.

2. Supplementary counter affidavits have been filed on behalf of the respondents no. 4, 8,9,10,11 and 12. The stand taken is that sanction orders have already been forwarded for grant of pensionary benefit to the petitioners to the Accountant General for issuance of authority to enable actual payment to start.

3. Learned counsel for the Accountant General submitted that as per his instructions, the sanction order was only with regard to Mahesh Prasad has been received and the P.P.O. has already been issued and with regard to others the same shall be issued within one week from the date of receipt of the sanction orders.

4. Learned counsel for the petitioners submitted that the fixation of pension is in the grade of Assistant Teacher, though, they had superannuated while working on the post of Headmaster and as per order of the Hon'ble Supreme Court, the authorities has to undertake an exercise considering them to be Assistant Teachers as on 11.06.1996 under the general category and



thereafter, their promotion to the post of the Headmaster was to be considered.

6. Learned counsel for the State submitted that the persons appointed after 16.10.1982 have not yet been promoted and the matter shall be taken up but because the petitioners have superannuated, their names do not find place in the consideration list. The court would only clarify at this point that the exercise shall be undertaken and if persons junior to the petitioners are promoted from such retrospective date, the petitioners shall also be entitled to the same benefit, at least notionally, for the purposes of fixation of their pensionary benefits.

7. Since, as of today, no person junior to the petitioners has been promoted on the post of Headmaster under the general category, the court cannot pass any positive order and, accordingly, the writ petition stands disposed off. However, in the event juniors to the petitioners are promoted to the post of Headmaster from a date on which the petitioners were in service, such petitioners shall also be given the notional benefit of promotion to the post of Headmaster for the purposes of computing their pensionary benefits and necessary revised P.P.O. shall be issued.

8. Learned counsel for the State has clarified that with



regard to petitioner no. 7, Kamta Prasad, the matter relating to Kishanganj district, the concerned Headmaster has been directed to send sanction order to the Accountant General, which shall be done within one week from today.

9. The court would only indicate that the State Authorities shall ensure that the sanction order is issued for final payment/fixation of retiral benefits, within two weeks from today.

(Ahsanuddin Amanullah, J.)

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