

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14646 of 2017

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Ajay Kumar Singh, Son of Sri Kuldeep Prasad Singh, Resident of Village-
Mohanpur, Post- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Department, Bihar, Patna.
3. The Director, Primary Education, Human Resources Department, Govt. of Bihar, Patna.
4. The District Magistrate, Saharsa.
5. The District Programme Officer, (Establishment), Saharsa.
6. The District Education Officer, Saharsa.
7. The Sub-Divisional Officer, Simri Bakhtiyarpur, Sub-Division-Simri Bakhtiyarpur, District- Saharsa.
8. The Block Development Officer, Simri Bakhtiyarpur, Block Simri Bakhtiyarpur, District- Saharsa.
9. The Block Education Officer, Simri Bakhtiyarpur, Block Simri Bakhtiyarpur, District- Saharsa.
10. In-Charge Officer, Law Branch, Saharsa.
11. Mohanpur Gram Panchayat through the Panchayat Secretary-cum-Member Secretary, Panchayat Niyojan Shiksha Samittee Mohanpur Panchayat, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
12. Mukhiya, Mohanpur Gram Panchayat, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
13. Chitrnanjan Kumar Singh, Son of Tarkeshwar Singh, Resident of Village- Mohanpur, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
14. Kundan Kumar, Son of Satya Nand Roy, Resident of Village- Mohanpur, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
15. Md Kaishar Ali Rahman, Son of Md. Alauddin, Resident of Village- Mohanpur, Tola- Usrahi, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
16. Md. Abu Kumar, Son of Md. Sultan Ahmad, Resident of Village- Mohanpur, Tola- Usrahi, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 14585 of 2017

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Ajay Kumar Khan, Son of Sri Janardan Khan, Resident of Village-Parni, P.S.-
Bangaon, District-Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Department, Bihar, Patna.
3. The Director, Primary Education, Human Resources Department, Govt. of Bihar, Patna.
4. The District Magistrate, Saharsa.
5. The District Programme Officer, (Establishment), Saharsa.
6. The District Education Officer, Saharsa.



7. The Sub-Divisional Officer, Simri Bakhtiyarpur, Sub-Division-Simri Bakhtiyarpur, District-Saharsa.
8. The Block Development Officer, Simri Bakhtiyarpur, Block Simri Bakhtiyarpur, District-Saharsa.
9. The Block Education Officer, Simri-Bakhtiyarpur, Block-Simri Bakhtiyarpur, District-Saharsa.
10. In-Charge Officer, Law Branch, Saharsa.
11. Mohanpur Gram Panchayat through the Panchayat Secretary-Cum-Member Secretary, Panchayat Niyojan Shiksha Samittee Mohanpur Panchayat, P.O.-Balwahat, P.S.-Bakhtiyarpur, District-Saharsa.
12. Mukhiya, Mohanpur Gram Panchayat, P.O.-Balwahat, P.S.-Bakhtiyarpur, District-Saharsa.
13. Chitranjan Kumar Singh Son of Tarkeshwr Singh, Resident of Village-Mohanpur, P.O.-Balwahat, P.S.-Bakhtiyarpur, District-Saharsa.
14. Kundan Kumar Son of Satya Nand Roy, Resident of Village-Mohanpur, P.O.-Balwahat, P.S.-Bakhtiyarpur, District-Saharsa.
15. Md Kaishar Ali Rahmani Son of Md. Alauddin, Resident of Village-Mohanpur, Tola-Usrahi, P.O.-Balwahat, P.S.-Bakhtiyarpur, District-Saharsa.
16. Md. Abu Kumar Son of Md. Sultan Ahmad, Resident of Village-Mohanpur, Tola-Usrahi, P.O.-Balwahat, P.S.-Bakhtiyarpur, District-Saharsa.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 14634 of 2017

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Kumari Manila, daughter of Sri Laxmeshwar Sah, wife of Sri Prabhat Ranjan, resident of Village- Bishanpur, Post- Kharagpur, P.S.- Sonbarsa Kachahari, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Department, Bihar, Patna.
3. The Director, Primary Education, Human Resources Department, Govt. of Bihar, Patna.
4. The District Magistrate, Saharsa.
5. The District Programme Officer, (Establishment), Saharsa.
6. The District Education Officer, Saharsa.
7. The Sub-Divisional Education Officer, Simri Bakhtiyarpur, Sub- Division-Simri Bakhtiyarpur, District Saharsa.
8. The Block Development Officer, Simri Bakhtiyarpur, Block Simri Bakhtiyarpur, District- Saharsa.
9. The Block Education Officer, Simri- Bakhtiyarpur, Block- Simri Bakhtiyarpur, District- Saharsa.
10. In-charge Officer, Law Branch, Saharsa.
11. Mohanpur Gram Panchayat through the Panchayat Secretary-cum- Member Secretary, Panchayat Niyojan Shiksha Samittee Mohanpur Panchayat, P.O.-Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
12. Mukhiya, Mohanpur Gram Panchayat, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
13. Chitranjan Kumar Singh son of Tarkeshwar Singh, resident of Village-Mohanpur, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.



14. Kundan Kumar son of Satya Nand Roy, Resident of Village- Mohanpur, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
15. Md Kaishar Ali Rahmani son of Md. Alauddin, Resident of Village- Mohanpur, Tola- Usrahi, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
16. Md. Abu Kamar, son of Md. Sultan Ahmad, Resident of Village- Mohanpur, Tola- Usrahi, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 14720 of 2017

=====

Sunam Kumari, daughter of Sri Mahendra Narayan Singh, Wife of Sri Sujit Kumar Singh, Resident of Village- Bharauli, P.S.- Sonbarsa Kachahari, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Department, Bihar, Patna.
3. The Director, Primary Education, Human Resources Department, Govt. of Bihar, Patna.
4. The District Magistrate, Saharsa.
5. The District Programme Officer, (Establishment), Saharsa.
6. The District Education Officer, Saharsa.
7. The Sub-Divisional Education Officer, Simri Bakhtiyarpur, Sub- Division- Simri Bakhtiyarpur, District Saharsa.
8. The Block Development Officer, Simri Bakhtiyarpur, Block Simri Bakhtiyarpur, District- Saharsa.
9. The Block Education Officer, Simri- Bakhtiyarpur, Block- Simri Bakhtiyarpur, District- Saharsa.
10. In-charge Officer, Law Branch, Saharsa.
11. Mohanpur Gram Panchayat through the Panchayat Secretary-cum- Member Secretary, Panchayat Niyojan Shiksha Samittee Mohanpur Panchayat, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
12. Mukhiya, Mohanpur Gram Panchayat, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
13. Chitranjan Kumar Singh son of Tarkeshwar Singh, Resident of Village- Mohanpur, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
14. Kundan Kumar son of Satya Nand Roy, Resident of Village- Mohanpur, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
15. Md Kaishar Ali Rahmani son of Md. Alauddin, Resident of Village- Mohanpur, Tola- Usrahi, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
16. Md. Abu Kamar son of Md. Sultan Ahmad, Resident of Village- Mohanpur, Tola- Usrahi, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 14852 of 2017

=====

Manoj Kumar Sharma, Son of Sri Lalo Sharma, Resident of Village- Singrauli, Post- Chapraw, P.S.- Bakhtiyarpur, District- Saharsa.

.... Petitioner/s



Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Department, Bihar, Patna.
3. The Director, Primary Education, Human Resources Department, Govt. of Bihar, Patna.
4. The District Magistrate, Saharsa.
5. The District Programme Officer, (Establishment), Saharsa.
6. The District Education Officer, Saharsa.
7. The Sub-Divisional Officer, Simri Bakhtiyarpur, Sub-Division-Simri Bakhtiyarpur, District- Saharsa.
8. The Block Development Officer, Simri Bakhtiyarpur, Block Simri Bakhtiyarpur, District- Saharsa.
9. The Block Education Officer, Simri Bakhtiyarpur, Block Simri Bakhtiyarpur, District- Saharsa.
10. In-Charge Officer, Law Branch, Saharsa.
11. Mohanpur Gram Panchayat through the Panchayat Secretary-cum-Member Secretary, Panchayat Niyojan Shiksha Samittee Mohanpur Panchayat, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
12. Mukhiya, Mohanpur Gram Panchayat, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
13. Chitranjan Kumar Singh, Son of Tarkeshwar Singh, Resident of Village- Mohanpur, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
14. Kundan Kumar, Son of Satya Nand Roy, Resident of Village- Mohanpur, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
15. Md. Kaishar Ali Rahmani, Son of Md. Alauddin, Resident of Village- Mohanpur, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
16. Md. Abu Kamar, Son of Md. Sultan Ahmad, Resident of Village- Mohanpur, Tola- Usrahi, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 14866 of 2017

=====

Md. Nafis Alam, Son of Md. Najim, resident of Village- Sitnabad, Post- Sitnabad, P.S.- Bakhtiyarpur, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Department, Bihar, Patna.
3. The Director, Primary Education, Human Resources Department, Govt. of Bihar Patna.
4. The District Magistrate, Saharsa.
5. The District Programme Officer, (Establishment), Saharsa.
6. The District Education Officer, Saharsa.
7. The Sub-Divisional Officer, Simri Bakhtiyarpur, Sub-Division-Simri Bakhtiyarpur, District- Saharsa.
8. The Block Development Officer, Simri Bakhtiyarpur, Block Simri Bakhtiyarpur, District- Saharsa.
9. The Block Education Officer, Simri-Bakhtiyarpur, Block- Simri Bakhtiyarpur, District- Saharsa.
10. In-charge Officer, Law Branch, Saharsa.



11. Mohanpur Gram Panchayat through the Panchayat Secretary-cum-Member Secretary, Panchayat Niyojan Shiksha Samittee Mohanpur Panchayat, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
12. Mukhiya, Mohanpur Gram Panchayat, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
13. Chitranjan Kumar Singh, Son of Tarkeshwar Singh, resident of Village- Mohanpur, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
14. Kundan Kumar, Son of Satya Nand Roy, resident of Village- Mohanpur, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
15. Md. Kaishar Ali Rahmani, Son of Md. Alauddin, resident of Village- Mohanur Tola- Usrahi, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.
16. Md. Abu Kumar, Son of Md. Sultan Ahmad, resident of Village- Mohanpur, Tola- Usrahi, P.O.- Balwahat, P.S.- Bakhtiyarpur, District- Saharsa.

.... Respondent/s

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Appearance :

(In CWJC No.14646 of 2017)

For the Petitioner/s : Mr. Ratan Kumar

For the Respondent/s : Mr. ASHUTOSH RANJAN PANDEY-
AAG15

(In CWJC No.14585 of 2017)

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

For the Respondent/s : Mr. M. Prasad Yadav, GP23

(In CWJC No.14634 of 2017)

For the Petitioner/s : Mr. Ratan Kumar

For the Respondent/s : SMT. BINITA SINGH-SC28

(In CWJC No.14720 of 2017)

For the Petitioner/s : Mr. Ratan Kumar

For the Respondent/s : SMT. SHILPA SINGH -GA12

(In CWJC No.14852 of 2017)

For the Petitioner/s : Mr. Ratan Kumar

For the Respondent/s : SMT. B. SINGH - SC28

(In CWJC No.14866 of 2017)

For the Petitioner/s : Mr. Ratan Kumar

For the Respondent/s : Mr. JITENDRA KR. ROY NO-1-SC13

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 09-04-2018

Heard learned counsel for the petitioners and State.,

2. These cases have a chequered history. In the matter of selection of Panchayat Teacher C.W.J.C. No. 5211 of 2010 was filed by one Chitranjan Kumar Sinha and others where many folds infirmity in the selection of Panchayat Teacher was raised.



Unfortunately, when the writ petition was filed, the present petitioners were not made party, although the petitioners were working as Panchayat Teacher and admittedly they were the necessary party in the matter of deciding lis against the petitioners. Against the decision of the Writ Court in C.W.J.C. No. 5211 of 2010, the same petitioner approached L.P.A. Court in L.P.A. No. 1391 of 2010. In the Letters Patent Appeal, the petitioners were also not made party and the order passed by the Writ Court was affirmed, which adversely affect the interest of the petitioners. The entire exercise by the Writ Court as well as L.P.A. Court was on the premise that the meritorious candidates were not given opportunity and as such the Writ Court interfered with the selection process, notwithstanding, the persons likely to be affected by the outcome of the writ petition were made party in the writ application. Subsequently, fresh selection process was undertaken by the respondents. In the fresh selection process, the petitioners, who were earlier selected and appointed, were again selected and appointed. The fresh selection process falsified the whole case as set up by the petitioners in C.W.J.C. No. 5211 of 2010 that meritorious candidates were ignored and less meritorious candidates were appointed, as the candidate appointed earlier were again selected and appointed in the fresh selection process.

3. Since the petitioners, who were appointed earlier, have



appeared in the fresh selection process, as a result of which the direction of the Writ Court and affirmed by the L.P.A. Court, their services were dispensed with and they remained out of job for two months. Thereafter vide order dated 21.11.2017 (Annexure-15) and vide letter dated 11.12.2017 (Annexure-16), the petitioners were again appointed on the post considering their merit position.

4. The only controversy in the present writ applications how to treat that period when the petitioners were terminated on the basis of the order passed by the Writ Court and affirmed by the L.P.A. Court on their appointment afresh vide Annexures- 15 and 16.

5. Mr. Baidnath Thakur, learned counsel for the respondents submits that since the appointment of the petitioners were found to be defective and the Writ Court has passed order for fresh selection process and the same was affirmed by the L.P.A. Court, the petitioners are not entitled to the benefit of service rendered prior to termination.

6. It is not in dispute that the Writ Court has interfered with the appointment of the petitioners, though behind their back on the premise that more meritorious candidates were ignored, but the ground for dispensing the services of the petitioners have not been established in the subsequent selection process where no one above the petitioners, who were purportedly more meritorious than the



petitioners were ignored, has come forward resultantly, petitioners have been selected and appointed.

7. Under the aforesaid circumstances, when the services of the petitioners was eclipsed on account of contention of the writ petitioners, who were not claiming to be from meritorious candidates, but they claimed before the writ court that the selection process was vitiated on account of non-selection of the candidate of more meritorious, but in the subsequent selection process the selection of the petitioners again clearly falsifies the contention, which was the basis of the order of the writ court, as no more meritorious candidates have come forward to accept the job and as such those who were appointed have to be appointed in the fresh selection process also.

8. In the totality of the aforesaid facts and circumstances, the Court is of the view that the petitioners were appointed by following the selection process that selection process was challenged on the specific ground that more meritorious candidates were ignored and that is the reason, service of the petitioners were dispensed with. The subsequent selection process undertaken pursuant to the Writ Court directions and as affirmed by the L.P.A. Court, leaves no manner of doubt that the persons above in the merit list were not interested in the job and that is why in the subsequent selection process pursuant to the direction of the Writ Court, they have not



appeared in fresh selection process and thereafter the petitioners were again selected and appointed.

9. In the totality of the facts situation, the Court is of the view that the petitioners, for the period they have worked pursuant to initial appointment, are entitled to payment of salary, so far as the period during which petitioners were kept out of employment due to direction of the Writ Court and affirmed by the LPA Court, petitioners are not entitled to any monetary benefit, however, the period should be counted to the length of service and teaching experience, which may be available for the petitioners for acquiring other benefit, which is otherwise permissible under the law.

10. In fact, the Division bench of this Court in the case of **Prakash Choudhary Vs. State of Bihar and ors**, reported in **2012 (2) PLJR 767** has noticed the similar circumstance where Panchayat Teacher was removed on the ground that merit list was ignored and the Division bench in L.P.A. No. 109 of 2011 noticing the fact that the appellant was entitled to be appointed as Panchayat Teacher on account of his merit directed for grant of seniority from the date of initial appointment and all consequential benefits except payment of arrears of salary. In the aforesaid circumstances, the appellant is entitled to benefit of pay fixation and other benefits counting the period during the petitioners were put out of job.



11. In view of the above, the writ applications are allowed to the extent indicated hereinabove.

12. The respondents are directed to grant benefit of seniority and continuity in service, except the monetary benefit. It is needless to state here that the petitioners are entitled to payment of salary, for which they have actually worked.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.05.2018
Transmission Date	

