

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22068 of 2014

1. Rama Shankar Prasad son of late Ram Jeetan Bhagat resident of village & P.O. Dhanauti, Police Station - Daraunda, District - Siwan, at present posted and working as an assistant teacher in Govt. Upgraded Middle School Machhauta, Anchal - Daraunda, District - Siwan.
2. Mahip Kumar Giri son of late Satya Narayan Giri resident of village & P.O. - Koireegawan, Police Station - Barharia, District - Siwan, at present posted and working as an assistant teacher in Govt. Upgraded Middle School Tetalahi, Anchal - Barharia, District - Siwan.
3. Abdul Kadir son of Abdul Salam resident of village & P.O. Ratan Parauli, Police Station - Bhagwanpur Hat, District - Siwan, at present posted and working as an assistant teacher in Govt. Upgraded Middle School Hussepur (Urdu), Anchal - Goreyakothi, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Panchayat Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The District Magistrate, Siwan.
4. The Regional Deputy Director of Education, Saran Division at Chapra.
5. The District Education Officer, Siwan.
6. The District Programme Officer (Establishment), Siwan.
7. The Block Education Officer, Daraunda, District Siwan.
8. The Block Education Officer, Pachrukhi, District Siwan.
9. The Block Education Officer, Barharia, District Siwan.
10. The Block Education Officer, Goreyakothi, District Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra
For the Respondent/s : Mr.



CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 13-09-2018 1. Heard learned counsel appearing on behalf of the petitioners and counsel appearing on behalf of the State.

2. Learned counsel appearing on behalf of the petitioners submits that after the judgment of the full Bench in the case of **Ram Nath Prasad Singh reported in 2009 (3) PLJR 384**, the respondents are required to finalize the gradation list for grant of promotion in terms of 1993 rules, but the respondents have not followed the judgment of the full Bench and as a result of their inaction, the petitioners have superannuated. The issue of grant of graduate trained scale was finally adjudicated by the full Bench in the case of Ram Nath Prasad Singh (supra). The full Bench held out that there should be separate list of Science and Arts teachers for grant of graduate trained scale and thereafter for further grant of promotion there should be combined gradation list the full Bench accordingly issued direction to the respondent authority to act in accordance with 1993 rules for grant of promotion.

3. Learned counsel for the petitioner apprehends that after superannuation, the respondents may not consider the case of the petitioners for grant of promotion and as a result of inaction on the part of the respondents the writ petitioners will



suffer.

4. Considering the facts that the matter which was finally decided by the full Bench in Ram Nath Prasad Singh case (supra), whereby specific direction was issued to the respondents to prepare gradation list for grant of promotion for grant of graduate trained scale, but the respondents have not acted upon in accordance with 1993 rules, even after the direction of the full Bench. The respondents cannot take advantage of their own wrong and deny promotion to the petitioners.

5. Accordingly, the writ petition is allowed the respondents are directed to consider the case of the petitioners for grant of promotion strictly in accordance with 1993 rules in the light of the direction of the full Bench in the case of Ram Nath Prasad Singh case (supra) and take appropriate decision within a maximum period of four months from the date of receipt/ production of a copy of this order.

6. It is made clear that respondents cannot take the plea that the petitioners have retired and as such they are not entitled to grant of promotion. In any event, the respondents have to consider the case after retirement at least for grant of notional promotion. Accordingly, respondents have to take



decision for grant of notional promotion and take appropriate decision in the matter of grant of post retiral dues and the revision of pension. The entire exercise in this regard must be completed by the respondents within a maximum period of four months with all consequential benefits.

(Anil Kumar Upadhyay, J)

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