

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4129 of 2016

1. Ehtesham Anjum, Son of Md. Shamim Anjum Resident of C - 1, Vishwashanta Apartment, Kabari Gali, Exhibition Road, P.S. Gandhi Maidan, District - Patna, Presently working as Librarian in + 2 Gaya High School, New Karimganj, District - Gaya
2. Diwakar Kumar, Son of Shri Kapildeo Paswan Resident of village and Post - Karara, P.S. Ghoswari, District Patna Presently working as Librarian in High School Babhnauli, District - Bhojpur at Ara
3. Naushad Anwar , Son of Md. Anwarul Haque Resident of C/o Anwar House, Muharampur, Bakarganj, P.S. Pirbahore, District - Patna, Presently working as Librarian in Rajkishore High School, Yusufpur, Hajipur, District - Vaishali at Hajipur
4. Manoj Kumar, Son of Ram Ratan Singh Resident of village and P.O. Pratap Nagar, P.S. Naugachhia, District - Bhagalpur, Presently Working as Librarian in High School, Jabra, District - Banka
5. Sanjeev Kumar Singh, Son of Jagdish Prasad Singh Resident of Mohalla - Chitragupta Nagar Chowk, P.S. Kankarbag (Patrakar Nagar), District - Patna, Presently Working as Librarian in Government Girls High School, Maner, District - Patna
6. Raj Kishore Singh, Son of Awadh Narayan Singh Resident of Village - Jahangirpur, P.O. Lagma, P.S. Singhiya, District - Samastipur, Presently working as Librarian in Shri Ganesh Higher Secondary School, Bakhtiyarpur, District - Patna
7. Pramod Kumar, Son of Shri Kameshwar Prasad Resident of village - Adhapa, P.O. Shorampur, P.S. Janipur, District - Patna, Presently Working as Librarian in Indra Singh +2 High School, Hilsar, District - Siwan
8. Santosh Kumar Singh, Son of Shri Shabhapati Singh Resident of village and Post - Saraw, P.S. Rasulpur, District - Saran at Chapra, Presently Working as Librarian in Narayan Karmyogi High School, Goriyakothi, District - Siwan
9. Prem Sudha Kumari, Daughter of Baleshwar Prasad Singh C/o Sushil Kumar Vidyarathi, resident of Mohalla - New Kunj Colony, Librarian in Yashwanth High School, Khijarsarai, District - Gaya
10. Shailendra Kumar, Son of Shri Rajdeo Prasad Resident of village - Ajwan, P.O. Ajwan (Bazarpur), P.S. Naubatpur, District - Patna, Presently Working as Librarian in High School, Surkhi, District - Aurangabad
11. Rajeev Ranjan Sinha, Son of Shri Ram Swaroop Prasad Resident of Mohalla - Kamruddinganj, P.O. & P.S. Biharsharif, District - Nalanda at Biharsharif, Presently Working as Librarian in Rajkiyakrit High School, Ejhi Murarpur, District - Sheikhpura
12. Ajit Kumar, Son of Late Yadunandan Prasad Resident of village - Laxmanpur, P.O. Chanda, P.S. Bakhtiyarpur, District - Patna, Presently Working as Librarian in R.S.M. Railway Added High School, Mokama Ghat, District - Patna
13. Hemlata Kumari Sinha, Wife of Rakesh Sharma Resident of village - Pirogha, P.O. Madanganj, P.S. Ghoshi, District Jehanabad Presently Working as Librarian in Nagaarjun High School, Panari, District - Gaya
14. Sujeet Kumar Meet, Son of Ramanand Prasad Resident of village - P.O. and P.S. Ekangar Sarai, District - Nalanda at Biharsharif, Presently Working as Librarian in Jagdish High School, Tetua, District - Gaya



15. Sanjeet Kumar Gupta, Son of Rajendra Prasad Gupta Resident of Mohalla - Gaya Gola, Nawadih Road, Aurangabad P.S. and District Aurangabad, Presently Working as Librarian in High School, Basdiha Kala, District - Aurangabad
 16. Mahesh Kumar, Son of Manki Singh Resident of village - Makhdumpur Ahra, P.O. Kajisarai, P.S. Kako, District - Jehanabad, Presently Working as Librarian in Rajaji High School, Kevri, Khijarsarai, District - Gaya
 17. Neelam Kumari, Daughter of Late Deo Sharan Singh Resident of C/o Ramdhari Rai, Kumar Sadan, New Area, Ara, P.S. Ara Town, District - Bhojpur at Ara, Presently Working as Librarian in Neemi Chandra Shastri Kanya High School, Ara District - Bhojpur at Ara
 18. Manoj Kumar, Son of Ramdeo Mistri Resident of village - Maijra, P.S. Silaw, District Nalanda at Biharsharif, Presently Working as Librarian in High School, Gangati, District - Nalanda at Biharsharif
 19. Ranjeet Kumar, Son of Anup Lal Singh Resident of village and P.O. Mahisari, P.S. Ujarpur, District - Samastipur, Presently Working as Librarian in High School, Mishraulia, District - Samastipur
 20. Prem Prakash Singh, Son of Shri Ram Sundar Singh Resident of village - Anchha, P.S. Daud Nagar, District - Aurangabad, Presently Working as Librarian in High School, Gordiha, District - Aurangabad
 21. Md. Mokhtar Alam, Son of Md. Nurul Haque Resident of village and P.O. Marghia Sadar Tola, P.S. Guru Bazar, District - Katihar, Presently Working as Librarian in High School, Telta, District - Katihar
 22. Md. Shamim Akhtar, Son of Md. Ismail Shajari Resident of village - Phulkauri, P.O. Marghia, P.S. Guru Bazar, District - Katihar, Presently Working as Librarian in High School, Kodha, District - Katihar
 23. Md. Taslim Akhtar, Son of Md. Ismile Shajari Resident of village - Phulkauri, P.O. Marghia, P.S. Guru Bazar, District - Katihar, Presently Working as Librarian in High School, Dumaria, District - Katihar
- 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, Secondary Education, Education Department, Government of Bihar, Patna
4. The District Education officer, Vaishali at Hajipur
5. The District Education officer, Banka
6. The District Education officer, Patna
7. The District Education officer, Gaya
8. The District Education officer, Siwan
9. The District Education officer, Aurangabad
10. The District Education officer, Bhojpur at Ara
11. The District Education officer, Sheikhpura
12. The District Education officer, Nalanda at Biharsharif
13. The District Education officer, Samastipur
14. The District Education officer, Katihar
15. The Principal, + 2 Gaya High School, New Karimganj, District - Gaya
16. The Principal, High School Babhnauli, District - Bhojpur at Ara
17. The Principal Rajkishore High School, Yusufpur, Hajipur, District - Vaishali at Hajipur
18. The Principal High School, Jabra, District - Banka
19. The Principal, Government Girls High School, Maner, District Patna



20. The Principal, Shri Ganesh Higher Secondary School, Bakhtiyarpur, District - Patna
21. The Principal Indra Singh + 2 High School, Hilsar, District - Siwan
22. The Principal, Narayan Karmyogi High School, Goriyakothi, District - Siwan
23. The Principal, Yashwant High School, Khijarsarai, District - Gaya
24. The Principal, High School, Surkhi, District Aurangabad
25. The Principal, Rajkiyakrit High School, Ejhi Murarpur, District - Sheikhpura
26. The Principal, R.S.M., Railway Added High School, Mokama Ghat, District - Patna
27. The Principal, Nagaarjun High School, Panari, District - Gaya
28. The Principal, Jagdish High School, Tetua, District - Gaya
29. The Principal, High School, Basdiha Kala, District - Aurangabad
30. The Principal, Rajaji High School, Kevri, Khijarsarai, District - Gaya
31. The Principal, Neemi Chandra Shastri Kanya High School, Ara, District - Bhojpur at Ara
32. The Principal, High School, Gangati, District - Nalanda at Biharsharif
33. The Principal, High School, Mishraulia, District - Samastipur
34. The Principal, High School, Gordiha, District - Aurangabad
35. The Principal, High School, Telta, District - Katihar
36. The Principal, High School, Kodha, District - Katihar
37. The Principal, Sadanand High School, Dumaria, District-Katihar. .Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. S. B. K. Manglam, Advocate
Mrs. Anita Kumari

For the Respondent/s : Mr. K. Kumar- GP17

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date: 03-05-2018

Heard learned counsel for the petitioners and respondents.

2. Way back in 2011, the petitioners were appointed on the post of Librarian. The appointment was provisional and was subject to verification.

3. The issue with regard to the validity / recognition of the degree led to litigation, which was taken up to the Apex Court and thereafter the respondents have found the degree of the petitioners as legal, valid and recognized for appointment as Librarian, as a result of



the final decision, the petitioners were inducted in the service vide resolution dated 15.02.2011.

4. Learned counsel for the petitioners, Mr. S. B. K. Manglam, submits that the petitioners were appointed in the year 2011 and for no fault of the petitioners, they were not allowed to work, as the respondents have raised certain objections and their appointment were put on hold. Finally, the issue was cleared after the decision of the Apex Court and the respondents have extended appointments and accepted the joining of the petitioners. Learned counsel for the petitioners submits that although the petitioners have not worked, but once the respondents have followed the sealed cover after appointment, then as a matter of natural corollary on clearance, the respondents are required to restore back all the benefits following the principles of sealed cover laid down by the Apex Court in the case of **Union of India Etc. Etc vs K.V. Jankiraman Etc.**, reported in **AIR 1991 SC 2010**. However, he fairly concedes that the petitioners are not claiming any salary for the period 2011 to 2014, as admittedly they have not worked. Notwithstanding the fact that there was no fault on the part of the petitioners, yet they are prepared to concede that for the aforesaid period they will not claim any salary, but the other benefits i.e. continuity of service is the legitimate claim of the petitioners.



5. Learned counsel for the respondents placing reliance to Rule 58 of the Bihar Service Code submitted that the petitioners have not worked and, as such, they cannot claim any benefit treating the initial date of appointment as the initial date of entry in the service. He submitted that the case of the petitioners is to be considered at the touch stone of sealed cover.

6. As indicated hereinabove, the sealed cover does not mean that the period during which the decision is kept in sealed cover would defeat the entitlement of benefit during sealed cover.

7. Having regard to the peculiar facts and circumstances of the case, the Court is of the considered view that the respondents cannot take advantage of their default in questioning the validity of the degree or the recognition of the degree, which was ultimately found to be baseless.

8. In view of the above, the Court is of the view that the petitioners cannot be faulted for the period, the petitioners appointment was put on hold by adopting sealed cover. Equity of situation demands that the petitioners should be granted all benefits on the basis of initial entry for the purpose of granting seniority, continuity, increment etc. including pensionary benefits.

9. It is made clear that the petitioners shall not be entitled to any salary for the period 2011 to 2014. The respondents are



accordingly required to workout the entitlement of the petitioners within a period of three months from the date of receipt/production of a copy of this order.

10. The consequential benefit must reach the petitioners within the time frame as indicated hereinabove.

11. The writ application is allowed to the extent indicated hereinabove.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.05.2018
Transmission Date	

