

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19486 of 2014

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1. Mahesh Choubey son of Late Sheo Nandan Choubey at present residing at Quarter no. 15 (old), Patna High School Campus, at & P.S. - Gardanibagh, Town & District - Patna.
 2. Suniti Kumar son of Sri Sudhanshu Kumar resident of village - Machhanahata, P.S. - Durgabati, District - Kaimur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Bihar, Patna.
2. The Director (Administration), Human Resources Development Department, Bihar, Patna.
3. The Director (Secondary Education), Bihar, Patna.
4. The Principal, Saheed Rajendra Prasad Singh Government + 2 High School, Gardanibagh, Patna.
5. Sri Ugesh Prasad Mandal son of Late Sadanand Mandal Asstt. Teacher, National High School, Amari, Madhepura, resident of Shantiniketan Hata, Tatama Toli, Purnea, P.S. - Purnea, District - Purnea.
6. Sri Umesh Kumar Pathak son of Late Kapildeo Pathak resident of Sahadeopath, Patel Nagar, east of Dr. B. Bhattacharya near building of Sahdeo Babu, P.S. - Shastri Nagar, District - Patna.
7. Sri Binod Kumar Sinha son of Late Sant Lal Sinha resident of F 30 Agriculture Colony, Kankarbagh, P.S. Kankarbagh, District - Patna.
8. Renu Kumari wife of Sanjay Kumar Sinha resident of Patel Nagar, Road No. 5, P.S.- Shastri Nagar, District - Patna.
9. Shri Krishna Prasad son of Sri Kameshwar Prasad resident of Indra Nagar, Postal Park, Patna, P.S. - Kankarbagh.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. D.K.Tiwari, Advocate
		Mr. Krishna Kant Tiwari, Advocate
For the Respondent/s	:	Mr. Vijaya Laxmi Srivastava, AC to SC 23

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 26-09-2018

Heard learned counsel for the petitioners and learned
counsel appearing on behalf of the State.

2. The present writ petition has been filed by the
petitioners for quashing of the order dated 6.8.2014, Annexure-25



and for a direction to the respondents to adjust the petitioners in the Bihar Education Service.

3. Mr. Dilip Kumar Tiwary, learned counsel for the petitioners submits that the petitioners were initially appointed as Assistant Teachers. They were absorbed in Subordinate Education Service, vide Annexure-9. After merger of the services of the petitioners, vide office order dated 5th January, 2008 in the Subordinate Education Service from the date of merger, the respondents have issued impugned order Annexure-25, whereby the date of merger has been revised from the date of issuance of the office order dated 5th January, 2008 instead of the date of merger. Counsel submits that in the case of other similarly situated teachers the said benefit was made available from the date of acquiring eligibility, whereas in the case of these petitioners it was made available from 5.1.2008. The petitioners are also entitled to absorption in Subordinate Education Service from the date they acquired eligibility like other similarly situated counterpart teachers absorbed in the Subordinate Education Service. From Annexure-25 it appears that the respondents have treated the case of the petitioners as promotion instead of absorption on account of merger.



4. In view of the above, the order Annexure-25 dated 6.8.2014, impugned in the writ petition, cannot sustain particularly when similarly circumstanced others have been granted the benefit of absorption, there is no reason to adopt a different yardstick for considering the case of the petitioners in view of the Bihar Litigation Policy, 2011 particularly 4(C) and the judgment of the Full Bench reported in 2018 (2) PLJR 929. Accordingly, the order contained in Annexure-25 is hereby quashed. As a result of quashing of Annexure-25, all other consequential orders lose their significance.

5. The respondents are directed to reconsider the case of the petitioners and if similarly circumstanced other teachers have been granted the benefit of merger and absorption from the date of acquiring eligibility, the same treatment should be extended to the petitioners. The benefit of merger of Subordinate Education Service to Bihar Education Service may also be considered in accordance with law. The respondents are required to take such decision at the earliest preferably within a maximum period of four months from the date of receipt/production of a copy of this order.

6. So far as the intervenor is concerned, he may approach the authorities and seek similar treatment on account of Bihar Litigation Policy referred to above.



7. With the aforesaid, the writ petition stands allowed
and disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.10.2018
Transmission Date	

