

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20085 of 2016

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1. Sakaldeo Singh Son of Late Basudeo Singh Resident of Village-Keoti, P.S.-Barbigha, District-Sheikhpura
 2. Pramod Kumar Chaudhary Son of Krishna Nand Singh Resident of Village-Thevai, P.S.-Manjhgain, District-Munger

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, patna
2. THE Principal Secretary, Department of Education, Government of Bihar, Patna
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Munger
5. The District Magistrate, Sheikhpura.
6. The District Education Officer-cum-Chairman, District Promotion Committee, Sheikhpura
7. The District Programme Officer, (Establishment), Sheikhpura

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. P.K. Sahi , Sr. Advocate
Mr. Vipin Kumar, Advocate
For the Respondent/s : Mr. S.C. Mishra- S.C.16

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 03-05-2018

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

Pursuant to the order dated 20th March 2018, a supplementary counter affidavit has been filed in which, in paras 5 to 8, following stands have been taken:-



“5 That in reply to the aforesaid questions, the deponent humbly submitted that the category of physical teachers are being treated in Untrained Cadre vide clause 16 of the Departmental Notification No. 940 dated 01.09.2011 and the letter no. 742 dated 1.7.2015 issued by the Directory, Primary Education, Government of Bihar, Patna in compliance of the order dated 24.06.2014 passed by this Hon’ble Court in CWJC No. 20883 of 2013.

“6 That the impediment has already been discussed in paragraph no. 5 and 6 of the counter affidavit filed on behalf of he respondent no. 6.

“7 That however the matter is forwarded by the deponent to the government for direction and for taking appropriate policy decision in the instant matter.

“8 That so far the work of the petitioner with regard to other subject are concerned, the same would be distributed/performed on mutual consent in routine manner and rotation wise.

In fact, this Court had occasion to decide a similar issue in C.W.J.C No. 10620 of 2017 where this Court has noticed the peculiar facts of sending the physical trained teachers for Teachers Training and after teachers training treating them as regular teachers and at the time of consideration of their case for



promotion, the respondents have taken a different stand and took a plea of their initial appointment as physical trained teachers and as such physical trained teachers are not eligible for promotion. The Court has noticed the time span and the fact that for all practical purposes, if the State and its authorities have treated the petitioners as regular teachers, they cannot deny the benefit of promotion particularly, when the Court finds that for such a long period teachers are allowed to be treated as regular teachers and their qualification as B.Ed. was also utilized by the respondents.

Considering the aforesaid, the Court is of the view that the respondent cannot now ignore the case of the petitioners saying that they were initially appointed as physical trained teachers.

In the totality of the fact situation, the balance of equity demands that the respondents may consider the case of the petitioners for grant of promotion, if they are otherwise within the zone of consideration.

Mr. P.K Shahi, senior counsel appearing on behalf of the petitioners submits that the petitioner No. 1 had superannuated during the pendency of the application and as such his case is only to be considered for grant of notional promotion and entitlement of benefits of such notional promotion in the matter of pension, etc.



The entire exercise must be completed by the respondents within a maximum period of three months from the date of receipt/production of a copy of this order.

With the aforesaid the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.05.2018
Transmission Date	

