

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6119 of 2016

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1. Deo Narayan Ram Son of Sri Basu Ram resident of village - Mahadeva, P.S. Phulparas, District - Madhubani
 2. Mahadeo Ram Son of Late Ram Sharan Ram resident of village - Ladaut, P.S. Benipatti, District - Madhubani
 3. Ram Sunder Paswan Son of Sri Raghbir Paswan resident of village - Dostpur, P.S. Khajauli, District - Madhubani
 4. Ghanshyam Kumar Son of Late Ramkrit Paswan resident of village - Belmohan, P.S. Phulparas, District - Madhubani
 5. Bindeshwar Ram Son of Sri Bauku Mochi resident of village - Mahindvar, P.S. Phulparas, District - Madhubani
 6. Ram Nandan Kumar Raman Son of Sri Ghoghan Mochi resident of village - Belmohan, P.S. Phulparas, District - Madhubani
 7. Ram Prakash Rai n Son of Sri Bindeshwar Ram resident of village - Malmal, P.S. Kaluahi, District - Madhubani
 8. Shjjan Lal Paswan Son of Late Ramfal Paswan resident of village - Kanhauli Belakothi, P.S. Khajauli, District - Madhubani
 9. Kishori Paswan Son of Late Bikau Paswan resident of village - Baira, P.S. Jainagar, District - Madhubani
 10. Mohan Kumar Baitha Son of Late Chintu Safi resident of village - Raje, P.S. Manigachhi, District - Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna
3. The Director, Primary Education, Government of Bihar, Patna
4. The District Magistrate, Madhubani
5. The Regional Deputy Director, Darbhanga Division, Darbhanga
6. The District Education officer, Madhubani, District - Madhubani
7. The District Programme officer, Madhubani, District Madhubani

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Manish Kumar -No 13, Advocate Mr. Jitendra Kumar Bharti, Advocate Mr. Rohit Kumar No-5, Advocate
For the Respondent/s	:	Mr. Ajeet Kumar SC-28

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 01-05-2018

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



The grievance of the petitioners is non-consideration of their case for grant of promotion.

Learned counsel for the petitioners submits that the respondents have prepared a list of 367 teachers including the petitioners for grant of promotion in graduate trained scale vide Memo No. 3414 dated 30th July, 2013, however, out of 367 persons others have been granted promotion, the petitioners have been ignored.

With reference to Annexure-2, i.e the counter affidavit filed in C.W.J.C. No. 2840 of 2013, learned counsel for the petitioners submits that the said counter affidavit is practically acknowledgment of the entire facts and circumstances and the claim of the petitioners but the respondents are acting contrary to their stand in C.W.J.C. No. 2840 of 2013.

In the counter affidavit filed on behalf of the respondent No. 7 in this case plea has been taken that after lifting of ban by the General Administration Department vide letter no.- 4800 dated 01.04.2016, process of promotion has been started and 339 teachers were granted promotion after scrutiny of their qualification. In para 8 of the counter affidavit it has been stated that vide Memo No. 1400 dated 13.09.2013 the persons having higher qualification appointed in 1994 were to be granted matric trained scale from the



date of passing of in-service training examination and 28 assistant teachers including the present petitioners have passed in-service teacher training in the month of June, 2005 as such they have not completed eight years Kalawadhi in matric trained scale as on 31.12.2011 and therefore the order of promotion issued vide memo no. 3414 dated 30.07.2013 was amended while issuing order of posting in respect of 339 assistant teachers in Trained Graduate Scale and thus, any claim for posting on the basis of order of promotion dated 30.07.2013 is not justified in the eye of law.

In para 9 of the counter affidavit it has been stated that those who have passed training examination in 1st attempt are to be given benefit of trained scale from 01.10.2003. In view of the entitlement of the petitioner with effect from 01.10.2003, the petitioners having duly acquired eligibility are entitled to be consider for grant of benefit of the trained graduate scale.

In view of the stand in para 9 of the counter affidavit the writ petition is disposed of with a direction to the respondent to take decision in light of their own counter affidavit wherein they have acknowledged that the petitioners on passing training examination in first attempt are entitled to the benefit from 01.10.2003 and as such on 31.12.2011 they have acquired the eligibility on completion of Kalawadhi of eight years which is



deemed to have been completed on 31.12.2011. The respondents District Education Officer, Madhubani is hereby directed to take final decision within a period of 60 days from the date of receipt/production of a copy of this order.

It goes without saying that the respondents have to consider grant of consequential benefit to these petitioners from the date juniors/ similarly circumstanced persons having acquired eligibility on 31.12.2011, were granted promotion within a further period of one month from the date of finalization of the claim of the petitioner for grant of promotion.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.05.2018
Transmission Date	

