

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12159 of 2015

-
1. Kumar Nitesh S/o Shyam Shankar Prasad, Resident of Qtr. No. 6, A.P. Colony, Gaya, Post Office- Gaya, District- Gaya
 2. Naveen Kumar Athghara, S/O Suresh Prasad, Resident of Mohalla- Gurudwara Road, Gosai Bagh, P.S.- Kotwali, Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through its Collector, Gaya
2. The Director Primary Education, Bihar, Patna
3. The Regional Deputy Director Education, Magadh Division, Gaya
4. The District Education Officer, Gaya
5. The District Programme Officer (Establishment) Gaya
6. The Block Education Officer, Manpur, Gaya
7. The Block Education Officer, Bodh Gaya, Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dharmendra Kumar Sinha, Advocate
For the State	:	Mr. Md. Harun Quareshi, AC to SC 1

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 27-11-2018

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

2. The petitioner is aggrieved by the order contained in Annexure-6, whereby the petitioner has been declared surplus/additional teacher in the Middle School, Bhusia, Bodh Gaya.

3. Learned counsel for the petitioner submits that the petitioner was granted graduate trained scale vide office order dated 11.12.2012, Annexure-1. The promotion granted to the petitioner was made effective from the date of his joining. This was to be done within a fortnight. After the order contained in



Annexure-1, if the petitioner has been transferred and posted in another school, that cannot be a ground to deny him the graduate trained scale. The apprehension of the petitioner that on account of adjustment in another school he will lose his seniority is thoroughly misconceived.

4. Once the respondents have granted the benefit of graduate trained scale vide office order dated 11.12.2012, Annexure-1, the petitioner will reckon his seniority in graduate trained scale with effect from the date of his joining and subsequent event of his transfer and posting will not, in any manner, adversely affect his seniority. He would be entitled to promotion on completion of Kalawadhi as Headmaster notwithstanding his posting in other school.

5. So far as the grievance of the petitioner that earlier vide Annexure-4 he was declared within the sanctioned strength and later on he was arbitrarily shifted from the school holding that the petitioner is surplus/additional teacher, is concerned, liberty shall be available to the petitioner to file representation before the District Programme Officer, Establishment, Gaya, who shall enquire into the matter and if it is found that petitioner was, in fact, within the sanctioned strength in the school at the time of his initial appointment and posting, the respondents are required to



adopt corrective measures so that the action treating him as additional teacher may be rectified on verification of the records. Necessary corrective measures in this regard must be taken by the respondents at the earliest preferably within a maximum period of four months from the date of receipt/production of a copy of this order.

6. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.11.2018
Transmission Date	NA

