

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14666 of 2014

-
-
1. Rameshwar Pandey Son of Chandradev Pandey Resident of Village - Repura, P.O. - Narharpur, District - Saran.
 2. Shiv Shankar Thakur Son of Harihar Thakur Resident of Village - Pirantta, P.O. - Narharpur, District - Saran.
 3. Nagendra Rai Son of Sadhu Saran Rai Resident of Village - Rajauli, P.O. - Dhanau, District - Saran.
 4. Vijay Kumar Singh Son of Mushafir Singh Resident of Village - Salempur, P.O. - Tedha, District - Saran.
 5. Abdul Haque Ansari Son of Rajib Ali Ansari Resident of Village - Darwa East Tola, P.O. - Ishuapur, District - Saran.
 6. Kanhaiya Prasad Sah Son of Raghunath Sah Resident of Village + P.O. - Bhatti Sahabuddin, Baniyapur, District - Saran.
 7. Alakhdeo Singh Son of Lakshmi Singh Resident of Village - Berui, P.O. - Dhanwa, District - Saran.
 8. Wakil Singh Son of Dhplal Singh Resident of Village - Bangra, P.O. - Bhatti Sahabuddin, Baniyapur, District - Saran.
 9. Devi Dayal Singh Son of Late Ram Gilas Singh Resident of Village - Berui, P.O. - Dhanwa, District - Saran.
 10. Raj Kishore Singh Son of Rameshwar Singh Resident of Village - Pirauta, P.O. - Narharpur, District - Saran.
 11. Bhagwanjee Sharma Son of Lalan Singh Resident of Village - Pirauta, P.O. - Narharpur, District - Saran.
 12. Prabhunath Prasad Son of Darshan Prasad Resident of Village - Ghoghia, P.O. - Mashrakh, District - Saran.
 13. Sheo Janak Pandit Son of Maya Pandit Resident of Village - Mashrakh South, P.O. - Mashrakh, District - Saran.
 14. Baliram Singh Son of Shyam Narayan Singh Resident of Village & P.O. - Jaithar, Circle - Traiya, District - Saran.
 15. Braj Bihari Pandey Son of Kapildeo Narayan Pandey Resident of Village - Gangauli, P.O. Mashrakh, District - Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Human Resources Development (Primary and Secondary Education), Government of Bihar, Patna.
2. Secretary, Primary and Secondary Education, Government of Bihar, Patna.
3. Director, Primary and Secondary Education, Government of Bihar, Patna.
4. District Magistrate, Saran at Chapra.
5. District Programme Officer, Saran at Chapra.
6. District Education Officer, Saran at Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Singh Mr. Satyendra Kumar Singh
For the Respondent/s	:	AC to SC 28



CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 10-09-2018

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

The present writ petition was filed way back in the year 2014 after service of advance copy to the office of the learned Advocate General. Unfortunately, even after four years, no counter affidavit has been filed.

The grievance of the petitioners is non-consideration of their case for grant of promotion in accordance with the 1993 Promotion Rules. The 1993 Promotion Rules provides for promotion from basic grade upwards on completion of *kalabadhi*. A Full Bench of this Court in the case of ***Ram Nath Prasad vs. State of Bihar [2009(3) PLJR 384]*** while dissolving the dispute as to preparation of gradation list for Arts and Science teachers for grant of graduate trained scale had issued direction to the respondents to prepare a gradation list and grant promotion strictly in accordance with the 1993 Rules.

Learned counsel submits that the reason for non-consideration of the case of petitioners is that they have superannuated from service. He submits that juniors to the petitioners have been granted promotion with retrospective effect,



i.e., the date when the petitioners were not in service and as such it is submitted that while granting promotion to the juniors with retrospective effect, i.e. prior to the date of superannuation of the petitioners, the respondents cannot deny the claim of the petitioners by taking the plea that the petitioners have now superannuated.

In view of the submission made on behalf of the petitioners and in absence of any counter affidavit, the writ petition is disposed of with a direction to the respondents to examine the claim of the petitioners and if any teacher junior to the petitioners was granted promotion on a date anterior to the date of superannuation of the petitioners, then the respondents have to adopt corrective measure and grant the benefit of promotion from the date juniors to the petitioners have been granted promotion. Superannuation of the petitioners will not be a ground to deny promotion from the date the juniors have been granted such promotion, if the date of promotion of such juniors is anterior to the date of superannuation of the petitioners. Accordingly, the respondents are hereby directed to take appropriate decision with regard to grant of promotion to the petitioners with consequential benefits from the date juniors have been granted such promotion



within a maximum period of four months from the date of receipt/production of a copy of this order.

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

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.09.2018
Transmission Date	N.A.

