

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15609 of 2015

1. Pramod Kumar son of Shri Dwarika Prasad, Resident of A/6 Jyotipuram, Khajpur, P.S. Rajiv Nagar, District Patna, presently posted in Primary School, Gorgawan, Khagaul, P.S. Sahpur, District-Patna.
2. Awadhesh Prasad Singh, son of Late Sakaldip Singh, Resident of Village- Ahiyapur, P.S. Bikram, District-Patna.
3. Sabha Sharan Kishlay, Son of Late Lakshan Dev Singh, Resident of Village Nagahar, P.S. Bikram, District-Patna.
4. Gulam Sarbar son of Md. Vazir Ahmad, Resident of Village-Dulhin Bazar, P.S. Dulhin Bazar, District-Patna.
5. Krishna Gopal Gupta son of Shri Jwala Prasad Gupta, Resident of Mohalla Turhatoli, P.S. Sahapur, District-Patna.
6. Nagendra Prasad son of Jairam Prasad, Resident of Village-Pilui, P.S. Daudpur, District-Saran, Chhapra.
7. Ravi Kumar son of Late Lal Bihari Singh, Resident of Bara, P.S. Navatpur, District-Patna.
8. Ajit Kumar Son of Nagendra Sharma, Resident of Village Tarahua, P.S. Makhadampur, District Jehanabad.
9. Abhay Kumar Sinha son of Shri Murli Manohar Sinha, Resident of Mohalla- Trishul Colony, Ambedkar Path, Rukanpura, P.S. Rupaspur, District-Patna.
10. Poonam Kumari Daughter of Shri Brijendra Kumar Singh, Resident of E/4, Aadarsh Bihar Colony, Rukanpura, P.S. Rupaspur, District-Patna.
11. Ajay Prasad Gupta son of Late Kishun Chandra Sao, Resident of Mohalla- Anandpuri, P.S. Khagaul, District-Patna.
12. Deepak Kumar son of Late Ramdev Prasad, Resident of Mohalla- Raipur Gadikhana, P.S. Khagaul, District- Patna.
13. Ashok Kumar son of Late Ramchandra Paswan, Resident of Village- Padiyawan, P.S. Bikram, District-Patna.
14. Nawal Kishore Prabhat, son of Shri Vidyasagar Prasad, Resident of Mohalla- Maharani Colony, Agamkuwan, Near Reliance Mobile Tower, P.S. Baipass, District Patna.
15. Sanjay Kumar Keshri, son of Hira Lal Keshri, Resident of Mohalla Maharajganj, Kurmi Tola, P.S. Alamganj, District-Patna.
16. Prafull Ranjan son of Shri Lal Sahab Singh, Resident of Mohalla- Chetna Samiti, North of Srinagar A.G. Colony, Behind Bilmarsh Charch, P.S. Shashtri Nagar, District-Patna.
17. Uma Shankar Verma son of Late Rajendra Prasad, Resident of C/o Shri Vishwanath Prasad Verma, Kumar Man Sinha Path, Chitragupt Nagar, Kankarbagh, P.S. Patrakarnagar, District-Patna.
18. Sanjay Kumar son of Rajendra Prasad, Resident of Vayu Path Lane, New Yarpur, P.S. Gardanibag, District-Patna.
19. Arbind Kumar son of Shri Jairam Singh, Resident of Mohalla-Kali Kutir, Ashoknagar, Road No.3, Kankarbagh, P.S. Kankarbagh, District-Patna.



20. Bibhuti Kumar son of Late Madan Sahu, Resident of Mohalla-Mithapur, In front Brahamdeo Bhawan, B Area, Mithapur, P.S. Jakanpur, District-Patna.

21. Manoj Kumar son of Lalit Kumar, Resident of Mohalla-Saraswati Lane, East Lohanipur, P.S. Kadamkuwa, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Dept. of Education, Govt. of Bihar, Patna.

2. The Principal Secretary, Department of Education, Government of Bihar, Patna.

3. The Director, Primary Education, Department of Education, Government of Bihar, Patna.

4. The Regional Deputy Director of Education, Patna Division, Patna.

5. The District Education Officer, Patna, Bihar.

6. The District Programme Officer (Establishment), Patna District, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Satyam Shivam Sundaram

For the Respondent/s : Mr. Anil Kumar Verma, AC to AAG-9

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 20-12-2018 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

2. Learned counsel for the petitioner submits that the respondents have not adhered to their own rule in granting promotion and adopted pick and chose method. Similarly circumstanced others even juniors, have been granted promotion but the petitioner has been denied the benefit of promotion. Rules are made for uniform application and not for adopting pick and chose method. If the respondents have failed to comply the rules and made departure from the rules, their action cannot



be justified. The twenty one petitioners are before this Court raising grievance of denial of promotion with consequential benefits in terms of promotion rules, they submit that they are entitled to grant of promotion in terms of 1993 promotion Rules which was substituted by 2011 Rules and now subsequent amended vide Rules, 2018. At the relevant time when the petitioners claim was under consideration for promotion 1993 Rules was in place but due to the lapse of respondents, petitioners case was not considered and due to failure on the part of the respondents, the petitioners have to approach this Court.

3. This writ application was filed after service of two advance copies of the writ application to the office of learned Advocate General on 28.09.2015. It may be noted here that the Patna High Court Rules was amended and provision for service of two advance copies of the writ application was incorporated with a view to facilitate the respondents to respond at the earliest for expeditious disposal of the writ application but due to the reluctance on the part of respondents authorities, despite service of two advance copies, the writ application remained pending, the present case as is one of the example. Simple issue involved in the instant writ application is that the respondents



have to answer whether they have followed the rules or made its departure in considering the case of petitioner and similarly circumstanced.

4. Under the aforesaid circumstance, the Court is constrained to disposed of the writ application with direction to Regional Deputy Director of Patna Division, Patna and all concerned to take appropriate decision on the claim of the petitioner for grant of promotion in terms of 1993 Rules or the amended 2011 Rules within a maximum period of four months from the date of receipt/production of copy of this order.

5. If the respondents find that the petitioner is entitled to grant of promotion in terms of Rule they are obliged to issue necessary orders granting promotion with all consequential benefits within the aforesaid period.

6. In the event, they find the claim of the petitioners not justified they have to pass a reasoned order rejecting the claim.

7. It is made clear that if the respondents makes delay in deciding the claim and ensuring the consequential benefit, the due amount will carry interest at the rate of 9% per annum from the date of its accrual till the date of its actual payment. The interest shall be born out from the pocket of concerned officials



of the Education Department in the office of Deputy Director of
Education, Patna.

8. With the aforesaid, the writ application stands
allowed and disposed of.

(Anil Kumar Upadhyay, J)

mdrashid/-

U			
----------	--	--	--

