

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11459 of 2015

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Mukesh Kumar, Aged about 48 years, S/o Late Kamla Ram R/o - At - Pamara, P.O.
- Keshopur, P.S. + Prakhand - Tharthari, District - Nalanda (Biharsharif).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Govt. of Bihar, Patna
4. The District Education Officer, Nalanda (Biharsharif).
5. The District Programme Officer (Establishment), Nalanda (Biharsharif).
6. The Block Education Officer, Noorsarai, Nalanda (Biharsharif).
7. The Headmaster of the Middle School Noorsarai, Sangat-cum-Drawing and
Disbursing Officer, Prakhand - Noorsarai, Nalanda, Biharsharif.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 21-06-2018

Heard learned counsel for the petitioner. Nobody appears
on behalf of the State.

2. The petitioner has moved the Court for the following
relief:

*“That, this is an application for
issuance of an appropriate writ (s), order (s),
direction(s) for quashing of the order as contained
in letter no. 7097 dated 26.10.2013 issued by the
District Programmed Officer (Establishment)*



Nalanda by which a directing has been issued to the respondent No-7 to deduct the excess amount taken by the Petitioner in 24 equal installments in Matric trained scale before 20.06.2005 and also for quashing of the consequential letter contained in memo no- 108 dated 02.12.2013 issued by the Respondent No-7 by which excess amount of Rs 3302 is being deducted from the salary of Petitioner since October 2013. And further Respondents by directed to return the deducted amounts alongwith the statutory interest treating him in the pay scale of Matric trained since 01.10.2003.”

3. The petitioner was appointed as Assistant Teacher and thereafter pursuant to training, he passed the examination held on 20.06.2005, in the first attempt. He was granted the scale of Matric Trained Teacher with effect from 01.10.2003. By the impugned order dated 26.10.2013, the authorities have directed for recovery of the excess amount paid on account of him being granted the Matric Trained Scale with effect from 01.10.2003 on the ground that he was entitled to the same only from the date of him passing the training examination i.e., 20.06.2005.

4. Learned counsel for the petitioner submitted that as per the resolution of the State Government in the Human Resources Department contained in Memo No. 790 dated 29.07.2011, untrained teachers who pass the training examination in the first attempt shall be granted the Matric Trained Scale with effect from 01.10.2003. It



was submitted that the petitioner falls in such category and accordingly, he was rightly granted the scale of Matric Trained Teacher from that date. It was submitted that the stand of the respondents, as reflected in their counter affidavit, that the petitioner was only Matric qualified and, thus, he would not be entitled to the benefit of Matric Trained Scale with effect from 01.10.2003, as it was only for those untrained teachers, who had a higher qualification such as I.A. or B.A. in view of the aforesaid resolution of the State Government. Learned counsel submitted that such stand is erroneous as recruitment rules do not distinguish between Matric and Intermediate as the eligibility for the recruitment as an Assistant Teacher.

5. Having considered the matter the Court does not find any merit in the writ application. The sheet anchor of the argument of learned counsel for the petitioner is the resolution of the State Government dated 29.07.2011. The particular portion on which reliance is placed is Clause 2 (Ka). The same roughly translated into English reads as under:

“The higher qualified untrained teachers who pass the training examination in the first attempt shall get with effect from 01.10.2003, whereas those passing in the second attempt i.e., after 01.10.2003, shall get the Matric Trained Scale and such exercise



shall be a one time measure in terms of Clause 11 of the Teachers Recruitment Rules, 1991.”

6. From the aforesaid, it is crystal clear that this benefit of getting Matric Trained Scale, from prospective date was available only to such untrained teachers who had higher qualification. This has nothing to do with the recruitment eligibility, which is Matric pass. Thus, the recruitment of the petitioner has not been questioned and the issue is only of his entitlement to a higher pay scale i.e., Matric Trained, that too, with retrospective effect, which has been denied. The Court finds that such distinction made by the authorities in the aforesaid resolution is reasonable. A person having higher qualification obviously would stand to get some advantage for having such qualification by way of an incentive. Thus, all persons possessing a higher qualification than the minimum qualification for recruitment to the post of the Assistant Teacher, which is Matriculation, by way of incentive being granted the higher pay scale from an early date is reasonable and justified. Similarly, the petitioner also has not been discriminated, inasmuch as, from the date he has qualified in the examination i.e., 20.06.2005, the authorities have held him entitled to such higher scale of Matric trained, which is reasonable and justified.

7. In view thereof, the action of the authorities is in



accordance with law and also reasonable and justified. Moreover, as the direction was to recover the amount in 24 equal monthly installments, the time having elapsed much back, the recovery has already been made.

8. For reasons aforesaid, the writ application stands dismissed.

(Ahsanuddin Amanullah, J)

P. Kumar

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