

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5980 of 2011

1. Suresh Prasad Chaudhary Son of late Chhedi Chaudhary Resident of Village- Laurshiya, Police Station- Sangrampur, District- Munger, at Present Posted and working as an Assistant Teacher in Govt. Middle School Barajor, Anchal- Jhajha, District- Jamui.
2. Chandra Bhushan Singh Son of late Kailashpati Singh Resident of Village- Dabil, Police Station- Khaira, District- Jamui, at Present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Indapai, District- Jamui.
3. Md. Irshad Alam Son of Abdul Bahab Resident of Village- Mirjapur, Police Station- Muffasil, District- Munger, at Present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Nim Nawada, District- Jamui.
4. Surendra Kumar Singh Son of Shri Deo Nandan Prasad Singh Resident of Village- Brindaban, Police Station- Sarmera, District- Nalanda, at Present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Mirjaganj Anchal- Aliganj, District- Jamui.
5. Rajendra Prasad Son of Shri Thakur Mahto Resident of Village- Puran Kama, Police Station- Sheikhpura, District- Sheikhpura, at Present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Sikandara, District- Jamui.
6. Bhola Prasad Son of Basudeo Prasad Resident of Village- Bichhaba, Police Station and District- Lakhisarai, at Present posted and working as an Assistant Teacher in Govt. Middle School Arha, Anchal- Aliganj, District- Jamui.
7. Hari Lal Mahto Son of late Chhotan Mahto Resident of Village- Ghoghi, Police Station- Piri Bazar, District- Lakhisarai, at Present posted and working as an Assistant Teacher in Govt. Middle School Dhanama, Anchal- Sikandara, District- Jamui.
8. Ramakant Mandal Son of late Basudeo Mandal Resident of Village- Khaira (Kajra), Police Station- Abhaypur, District- Munger, at Present posted and working as an Assistant Teacher in Govt. Middle School Dharampur, Anchal- Sikandara, District- Jamui.
9. Awadh Kishore Paswan Son of Shri Keso Paswan resident of Village- Nimi, Police Station- Shekhopur Sarai, District- Sheikhpura, at Present posted and working as an Assistant Teacher in Govt. Middle School Hilsa, Kodwaria, Anchal- Aliganj, District- Jamui.
10. Jai Prakash Mahto Son of Parmeshwar Mahto Resident of Village- Manikpur, Police Station- Suryagarha, District- Lakhisarai, at Present posted and working as an Assistant Teacher in Govt. Middle School Tajpur, Anchal- Aliganj, District- Jamui.
11. Girish Kumar Singh Son of Shri Birendra Prasad Singh Resident of Village- Deoghara, Police Station- Medanichauki, District- Lakhisarai, at Present posted and working as an Assistant



- Teacher in Govt. Middle School Sonkharh, Anchal- Aliganj, District-Jamui.
12. Naveen Kumar Singh Son of Babulal Singh Resident of Village- Jaitpur, Police Station- Barahiya, District- Lakhisarai, at Present posted and working as an Assistant Teacher in Govt. Middle School Mainachatar, Anchal- Aliganj, District-Jamui.
 13. Sadanand Singh Son of late Sukhdeo Singh Resident of Village- Sahur, Police Station- Suryagarha, District- Lakhisarai, at Present posted and working as an Assistant Teacher in Govt. Middle School Moura, Anchal- Gidhaur, District-Jamui.
 14. Diwakar Prasad Singh Son of late Bhagwat Prasad Singh Resident of Village- Ratanpur, Police Station- Gidhan, District- Jamui, at Present posted and working as an Assistant Teacher in Govt. Middle School Ratanpur, Anchal- Gidhaur, District-Jamui.
 15. Kapildeo Narayan Singh Son of late Ram Kishun Mahto Resident of Village- Jhapani, Police Station- Medani Chauki, District- Lakhisarai, at Present posted and working as an Assistant Teacher in Govt. Middle School Pirhinda, Anchal- Sikandra, District-Jamui.
 16. Jai Prakash Sinha son of late Gajadhar Prasad Mahto Resident of Village- Garib Nagar, Police Station- Manikpur, District- Lakhisarai, at Present posted and working as an Assistant Teacher in Govt. Middle School Aliganj, Anchal Aliganj, District-Jamui.
 17. Shri Kant Singh Son of Ramjee Singh Resident of Village- Tarhari, Police Station- Sikandra, District- Lakhisarai, at Present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Dundo, District-Jamui.
 18. Ram Niwas Prasad Verma Sonm of Yadu Sao Resident of Village- Pursanda, Police Station- Aliganj, District- Jamui, at Present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Domai, Anchal- Jhajha, District-Jamui.
 19. Binod Kumar Singh son of Bhuneshwar Mahto Resident of Village- Bakarchak Dighari, Police Station- Suryagarha, District- Lakhisarai, at Present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Ranikura, Anchal- Jhajha, District- Jamui.
 20. Sudhir Kumar Singh Son of Prasadha Narayan Singh Resident of Village- Shivkund, Police Station- Dharhara, District- Munger, at Present posted and working as an Assistant Teacher in Govt. Middle School Sohjana, Anchal Jhajha, District-Jamui.
 21. Ram Kishore Prasad Singh Son of Shri Bisheshwar Prasad Singh Resident of Village- Chhataini, Police Station-Lohan, District- Jamui, at Present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Hansdih, (Hindi), District- Jamui.
 22. Kunwar Rajak Son of Shri Ram Lal Rajak Resident of Village & P.O. Nimi, Police Station- Shekhopur Sarai, District- Sheikhpura, at Present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Baruaha, District- Jamui.



23. Ram Ratan Prasad Verma Son of late Sita Ram Verma Resident of Village- Dharampur, P.O. Malia, Police Station- Chanan (Eton), District- Lakhisarai, at Present residing as Mananpur Bazar, P.O. Mananpur Bazar, Police Station Mananpur, District- Lakhisarai, at Present posted and working as an Assistant Teacher in Govt. Anugrah Middle School Jhajha, Anchal- Jhajha District- Jamui,
24. Raj Kapoor Prasad Son of late Babulal Tanti Resident of Village- Garbhu Chak, P.O. Jamalpur, Police Station- Jamalpur, District- Munger, at Present Posted and Working as Head Teacher in Govt. Middle School Halimpur, Anchal Jamalpur, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Deputy Secretary, Finance (Pay Fixation) Department, Government of Bihar, Patna.
5. The Director, Primary Education, Bihar, Patna.
6. The Special Director, Primary and Adult Education, Bihar, Patna.
7. The Regional Deputy Director of Education, Munger Division, Munger.
8. The District Magistrate, Jamui.
9. The District Magistrate, Munger.
10. The District Magistrate, Sheikhpura.
11. The Deputy Development Commissioner-Cum- Chairman, District- Education Establishment Committee, Jamui.
12. The Deputy Development Commissioner-Cum- Chairman, District- Education Establishment Committee, Munger.
13. The Deputy Development Commissioner-Cum- Chairman, District- Education Establishment Committee, Sheikhpura.
14. The District Superintendent of Education, Munger.
15. The District Superintendent of Education, Sheikhpura.
16. The District Superintendent of Education, Jamui.
17. The District Accounts Officer, Munger.
18. The District Accounts Officer, Jamaui.
19. The District Accounts Officer, Sheikhpura.
20. The District Treasury Officer, Munger.
21. The District Treasury Officer, Jamui.
22. The District Treasury Officer, Sheikhpura.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate,
For the Respondent/s : Mr. Sunil Kumar, AC to G.A.-12.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 04-10-2018



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

2. Learned counsel appearing on behalf of the petitioner submits that case of the petitioner covered by the Judgment of this Court in CWJC No.8333 of 1999 (Shiva Kant Jha Vs. The State of Bihar & Ors.) wherein the Co-ordinate Bench of this Court on consideration of the resolution dated 18.12.1999 held as follows:

“According to this clause the persons who have been appointed on or after 1st January, 1986 but before issue of the orders i.e. 18.12.1989 it would be deemed that their appointments have been made in the revised scale subject to the provisions made in subsequent paragraphs of the said Resolution. Schedule-III is in relation to fixation of pay in the revised scale. It says that fixation of pay of Government servants both gazetted and non-gazetted, who were in services on 01.01.1986 shall be made in the revised scale of pay at a stage to be determined in accordance with Schedule-III. Clause 1 says that the present emoluments will be worked out as on 1st January, 1986 and will include (1) the basic pay on 01.01.1986 and (2) D.A./ad-hoc D.A. admissible at index average 608. Paragraph 2 says that to the present emoluments will be added a sum equivalent to 35% of the basic



pay in the existing scale subject to a minimum of Rs. 175 and maximum of Rs. 700. According to paragraph-3, the total of present emoluments and the 'additional sum' will be called 'Pre-Fixation Emoluments'. Paragraph 4 says that the 'Pre-Fixation Emoluments' will be fitted in the revised scale of pay as provided in paragraph-4. From Annexure-3 it would appear that the petitioner was appointed in the scale of Rs. 730-1080; on the date of his fixation of the pay, his D.A. as admissible on 01.01.1986 on 608 points index average was 394.20. Adding the above two, his salary was Rs. 1124.20. This would be the 'present emoluments' to which additional sum' at 35% is to be added which would come down to 255.50. The petitioner's total emoluments for the purposes of pay fixation would be Rs. 1379.70, the round of which would be Rs. 1380. To this the benefit of three increments is to be added in accordance with paragraph 6 of Schedule-III of the said resolution. Paragraph 6 says that after fixation of pay in the revised scale with effect from 01.01.1986, to this is to be added the benefit of three increments. Paragraph-6 says that after fixation of pay in the revised scale with effect from 1.1.1986 three increments will be allowed to the Intermediate untrained/Intermediate trained/ Graduate untrained teachers who get their pay



fixed in the scale of Rs. 1200-2040 in revised scales. Each increment would be Rs. 30 as is clear from Schedule-I. To the total amount of Rs. 1380 three increments of Rs. 30 each totaling to Rs. 90 is to be added and the salary of the petitioner would be Rs. 1470 as on 20.4.1988. If that could be the calculations in accordance with the Resolution and it was so fixed by the Headmaster on 15.03.1990 and an entry to that effect was made in Annexure-4 under the signatures of the Headmaster then there was no scope for the District Accounts Officer to hold that the petitioner's salary on 01.01.1986 would be zero, therefore, on application of the revised pay scale from Rs. 730-1080 to Rs. 1200-2040 the petitioner would be fixed at the minimum of Rs. 1200 and would be entitled to the benefit of three increments i.e. Rs 90 only.

In the opinion of this Court a fair understanding of the Resolution of the Government and its proper application would show that petitioner's pay fixed in Annexure-3 was in accordance with the Resolution and there was no violation of any clause or any paragraph of the Schedules annexed or appended to the said Resolution. The endorsements made in the service book of the petitioner under the signatures of the District Accounts Officer are quashed. It is further



directed that the recovery ordered by the District Accounts Officer shall not be made from the salary of the petitioner. The petition is allowed.”

3. Mr. Mishra further submits that relying on the said decision this Court has also granted indulgence and allowed the writ application vide order dated 17.9.2018 in CWJC No. 24896.

4. Considering the aforesaid the writ application is allowed, Annexure-14 to the writ application is quashed. The respondents have to examine the claim of the petitioner in the light of the decision in CWJC No. 8333 of 1999 dated 29.7.2004 and decision in CWJC No. 24896 of 2013 dated 17.9.2018 and pass appropriate order within a maximum period of four months from the date of receipt / production of a copy of this order.

5. Consequential benefits are also available to those petitioners who have been retired during the pendency of this case.

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

(Anil Kumar Upadhyay, J)

T.Kr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

