

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1631 of 2012

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1. Amar Singh, Son of Late Ram Lochan Singh, Resident of Village - Khajuhati, P.S. Baikunthpur, District - Gopalganj
 2. Ish Mohammad Mian, Son of Late Mesaddi Mian, Resident of Village - Bhagwanpur, P.S.- Phulwaria, District - Gopalganj
 3. Chandra Sen Singh, Son of Late Dhurendra Singh, Resident of Village - Tola Deva, P.S. Phulwaria, District - Gopalganj
 4. Suresh Mani Tripathy, Son of Surya Mani Tiwary, Resident of Village - Mathia, P.S.- Bhore, District Gopalganj
 5. Ramadhar Patel, Son of Late Bishwanath Patel, Resident of Village - Bhore, P.S.- Bhore, District Gopalganj
 6. Ashrifi Chaudhary, Son of Late Nand Kishore Chaudhary, Resident of Village - Jamser, P.S. Uchaka Gaon, District - Gopalganj
 7. Abdul Haque Ansari, Son of Late Nanku Mian, Resident of Village - Gosai Magha, P.S. Phulwaria, District - Gopalganj
 8. Chandra Shekhar Chaubey, Son of Late Jagarnath Chaudhary, Resident of Village - Kateya, P.S. Kataya, District - Gopalganj
 9. Devendra Narain Rai, Son of Late Patwari Rai, Resident of Village - Khurrutia, P.S. Kateya, District Gopalganj
 10. Ramesh Singh, Son of Late Jagdish Singh, Resident of Village - Ekderwa, P.S. Thawey, District - Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna
3. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna
4. The Director, Secondary Education, Bihar, Patna
5. The Divisional Commissioner, Gopalganj
6. The District Magistrate, Gopalganj
7. The Deputy Development Commissioner-Cum-Chairman District Education Establishment Committee, Gopalganj
8. The District Education Officer, Gopalganj
9. District Account Officer, Gopalganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. U.S. Verma, Advocate
Mr. B. K. Mishra, Advocate

For the Respondent/s : Mr. Mukund Mohan Jha, AC to GP-27

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 26-06-2018

Heard learned counsel for the petitioners and the



respondents.

2. The grievance of the petitioners in the present writ application is that notwithstanding the availability of the promotional post in the cadre, the respondents have not granted the benefit of A.C.P. on the basis of pay scale available on cadre promotion.

3. The concept of the financial up-gradation is to do away stagnation on account of non-availability of promotional avenue. Under the law, the respondents have formulated that in case there is a cadre promotion available and due to non-availability of post, if individual is stagnating then time limit has been prescribed under the ACP Rule, the incumbent would be entitled to financial up-gradation and grant of pay scale admissible to the promotional post.

4. In case, there is no promotional post, the rule provides for grant of financial up-gradation to the next higher pay scale.

5. Learned counsel for the petitioners submits that in the instant case, the respondents have not correctly appreciated the entire facts and circumstances while passing the impugned order. He submits that in similar facts situation, another writ application was disposed of by a Co-ordinate Bench of this Court granting liberty to the petitioner to file representation.

6. In view of parity, the writ application is disposed of



with liberty to the petitioners to file representation along with a copy of this order within a period of one month from today.

7. In case, such representation is filed, the respondent authorities will consider and decide the claim of the petitioners and if it is found that the promotional post is available in the cadre, the petitioners may be granted the benefit of financial up-gradation to the promotional post, otherwise the respondent authorities may decide the entitlement of the petitioners on the basis of next higher pay scale, as per the ACP scheme. Final decision in this regard must be taken by the respondents within a period of three months from the date of filing of such representation.

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

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.07.2018
Transmission Date	

