

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 4087 of 2015

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Murlidhar, Son of Late Jagdish Narayan Mandal, Resident of Village-Aaran, Police Station-Bihra, District Saharsa. At Present- Assistant Teacher, Madhya Vidyalaya, Tiri Chakla, Block & Police Station- Saurbazar, District-Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Department, Government of Bihar, Patna.
2. The Director Primary Education, Government of Bihar, Patna.
3. The District Magistrate, Saharsa.
4. The Deputy Development Commissioner Saharsa.
5. Regional Deputy Director, Education, Koshi Division, Saharsa.
6. The District Education Officer, Saharsa.
7. The District Program Officer, Establishment, Saharsa.

.... 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 ORDER

7 18-01-2018

Heard learned counsel for the petitioner and the State.

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

“(i) The petitioner may be promoted to B.Sc Trained Scale with Retrospective effect from 25.05.1996, with all consequential benefits.

(ii) The petitioner may be promoted to the Scale of Headmaster since 25.05.2001.

(iii) The petitioner may be promoted to the post of Headmaster senior scale since 25.05.2013, along with all its consequential benefits as per his seniority.

(iv) Any other relief/reliefs for which the petitioner is found entitled too”.



3. In sum and substance, the petitioner wants that the grant of B.Sc. trained scale to him should be with effect from 25.05.1996 and to the scale of Headmaster since 25.05.2001 and further to the senior scale of Headmaster with effect from 25.05.2013.

4. The petitioner claims to be eligible for grant of B.Sc. trained scale with effect from 25.05.1996 but the same has been granted to him with effect from 11.10.2006.

5. Learned counsel for the State raised twofold objections. Firstly, he submitted that the cause of action arose in the year 1996, when the petitioner was not granted the B.Sc. trained scale and in any case after 11.10.2006, when he was granted, but without retrospective effect. It was submitted that challenge to the same after more than 8 years is sufficient ground not to entertain the writ application. It was further submitted that even such initial non grant of B.Sc. trained scale and later the grant but without retrospective effect was amenable to appeal before the Regional Deputy Director of Education in terms of the service rules governing the service condition of the petitioner. Thus, it was submitted that even on ground of alternate remedy, the present writ application should not be entertained.

6. Faced with the situation, learned counsel for the



petitioner submitted that he may be permitted to withdraw the writ application with liberty to move before the appellate forum i.e., the Regional Deputy Director of Education in the matter.

7. In view thereof, the writ petition stands disposed off with liberty aforesaid.

8. If the petitioner moves before the authority, the same shall be considered in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

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