

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16936 of 2010

=====

BABU NAND PRASAD S/O GOKUL PRASAD R/O VILL JAGDISHPUR,
P.O.BATHUA BAZAR, P.S.UCHAKAGAON, DISTT-GOPALGANJ

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. THE DIRECTOR, WELFARE DEPARTMENT GOVT. OF BIHAR, PATNA
3. DIVISIONAL DEPUTY DIRECTOR, WELFARE DEPARTMENT
CHAPRA(SARAN)
4. THE DISTRICT WELFARE OFFICER GOPALGANJ
5. PRINCIPAL SECRETARY-CUM-COMMISSIONER, WELFARE
DEPARTMENT GOVT. OF BIHAR, PATNA
6. THE HEADMASTER, AMBEDKAR RESIDENTIAL HIGH SCHOOL
HATHUA (GOPALGANJ)

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh
For the Respondent/s : Mr. (Sc 18)

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 20-06-2018 The present writ petition has been filed for directing

the Respondents to restore the pay-scale of Rs. 5500-9000/-

which has been reduced to 4000-6000/-.

The Respondents, in their counter affidavit, have
stated that upon inquiry, it has been found that the petitioner had
obtained a degree of Shiksha Alankar (B.Ed) from the National
Correspondence Institute Kanpur which has been found to be a
non-recognized Institute i.e. not recognized by the N.C.T.E,
hence, the petitioner has been treated to be an untrained
graduate teacher. The pay-scale of trained graduate teacher is
5500-9000/- whereas that of untrained graduate teacher is 4000-



6000/-, hence, the pay-scale of the petitioner has been rightly reduced.

The learned counsel for the petitioner submits that the petitioner had not suppressed the factum of him having obtained degree from the National Correspondence Institute Kanpur and if at all, it was the fault of the respondents in granting a wrong pay-scale, hence, the petitioner cannot be blamed for the same. It is further submitted that at least, the amount should not be recovered and in case, the same has been recovered, the same should be refunded to the petitioner, however, the petitioner is not agitating grade fixation of the pay-scale.

In this regard, reference be had to the judgments reported in **2009 (3) SCC 475 (Syed Abdul Quadir Vs. State of Bihar); 1995 Supp(1) SCC 18 (Sahib Ram vs The State of Haryana & others) and 2015 (4) SCC 334 (State of Punjab vs. Rafiq Masih).**

In view of the well settled law, it is directed that though the pay-scale of the petitioner shall be treated to be 4000-6000/- from the date the same has been reduced, however, the excess amount of salary paid shall not be recovered and in case, the same has been recovered, the same shall be paid back to the petitioner herein since the excess fixation of pay-scale was not



on account of any misrepresentation or concealment on behalf
of the petitioner, but on account of the fault of the respondents.

The writ petition is allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

ajay gupta/-

U			
---	--	--	--

