

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.21456 of 2014**

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1. Ram Sinhasan Pandey Son of Late Baikunth Pandey Resident of Village - Machiaw , P.O - Muthani, P.S- Bhabua, District - Kaimur(Bhabua).
2. Ram Nagina Singh Son of Late Kapil Dev Singh Resident of Village - Devariya, P.O - Bhitti, P.S- Mohania, District - Kaimur (Bhabua)
3. Harivansh Singh Son of Late Jagrup Singh Resident of Village - Kulhariya, P.O - Karmnasha, P.s- Durgawati, District - Kaimur (Bhabua)
4. Mukhram Tiwari Son of Late Brij Bihari Tiwary Resident of Village - Imaliya, P.O - Jandaha, P.S- Ramgarh, District - Kaimur (Bhabua)
5. Lakshman Singh Son of Late Kashi Singh Resident of Village - Tejopur, P.S- Naubatpur, P.S- Barhani, P.S- Bhandauli, Uttar Pradesh.
6. Ram Surat Singh Son of Late Shiv Lochan Singh Resident of Village - Devariya, P.O - Bhitti , P.S- Mohania, District - Kaimur (Bhabhua)
7. Haricharan Ram Son of Late Mahipat Ram Resident of Village - Karnapura, P.O - Drgawati, P.S- Duragawati, District - Kaimur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. The Principal Secretary, Human Resources and Development Department, Govt. of Bihar, Old Secretariat, Patna.
4. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
5. Accountant General (A&E), Bihar, Beerchand Patel Marg, Patna.
6. Director, Primary Education, New Secretariat, Patna.
7. Regional Deputy Director, Education, Patna Division, Patna.
8. Deputy Director, Primary Education, Patna Division, Patna.
9. District Superintendent Education Cum Sub Divisional Education Officer, Bhabua, Kaimur.



10. District Education Officer, Establishment and Programme Coordinator,  
Bhabhua, (Kaimur)

11. District Education Officer, Establishment and Programme Coordinator,  
Rohtas,(Sasaram). ... .. Respondent/s

**Appearance :**

|                       |   |                                  |
|-----------------------|---|----------------------------------|
| For the Petitioner/s  | : | Mr. Radha Mohan Pandey, Advocate |
| For the State         | : | Mr. Indradeo Prasad, SC 27       |
|                       |   | Mr. K.K.Tiwary, AC to SC 27      |
| For the Acct. General | ; | Mr. Raghwanand, Advocate         |

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY  
ORAL JUDGMENT**

**Date : 26-09-2018**

Heard learned counsel for the petitioners and learned  
counsel appearing on behalf of the State as well as the Accountant  
General.

2. Petitioner No. 1 retired on 31.1.2000, petitioner No.  
2 retired on 31.12.1998, petitioner no. 3 retired on 31.7.2001,  
petitioner No. 4 retired on 31.1.2003, petitioner No. 5 retired on  
31.1.2002, petitioner No. 6 retired on 31.1.2002 and petitioner No.  
7 retired on 30.11.1999. After their retirement the respondents  
have granted promotion to the petitioners in the Headmaster's  
scale with retrospective effect but the actual benefit of such  
promotion was not made available to them and as a result of  
inaction of the respondents the petitioners have been deprived of  
pensionary benefits on the basis of promotion.

3. Referring to Annexure-7 Mr. Radha Mohan Pandey,  
learned counsel for the petitioners submits that the Senior  
Accounts Officer, Accountant General Office has written letter to



the Director, Primary Education that in the matter of grant of retrospective promotion the approval of the Finance Department has not been obtained. The letter indicates that further appropriate action shall be taken at the level of the Accountant General after the approval of the Finance Department is obtained. This letter is dated 12<sup>th</sup> February, 2007. We are in 2018. Even after expiry of 11 long years due to dilly dally of the respondents, the petitioners are deprived of their actual benefits, which is available to the petitioners on account of their promotion with retrospective dates. Once the respondents, with open eyes, granted promotion to the petitioners with retrospective effect in order to do justice to the petitioners considering their seniority and eligibility for grant of promotion, it goes without saying that benefit of promotion is not illusory or imaginary, it has object behind and if the promotion order was issued by the competent authority then promotion with all consequential benefits is available to the petitioners and the same cannot be denied to them on account of infirmity or lapses one or the other at the level of the respondents themselves. The Government acts in decision making process is one and not expected to speak through different Departments. In the decision making process, there should be coordination in one or the other departments in the matter of taking action but due to the inaction



on the part of the respondents in not obtaining clearance of the Finance Department, the petitioners have to approach this Court at the evening of their lives and despite the present writ petition was filed with two advance copies on 15.12.2014, neither the grievance of the petitioner has been redressed nor any counter affidavit has been filed by the respondents.

4. Under the aforesaid circumstances, the Court is constrained to direct the Director, Primary Education to do the needful and complete all the formalities in terms of the letter of the Senior Accounts Officer, Accountant General Office, Annexure-7, within a maximum period of four months from the date of receipt/production of a copy of this order. The respondents are under obligation to ensure payment of the consequential benefits on grant of promotion within the same period. They cannot deny consequential benefit taking plea that petitioners have now retired and therefore, they cannot get the benefit of such promotion after superannuation as the respondents cannot take advantage of their own lapse in not completing the formalities at the appropriate time and causing delay.

5. In the event the case of the petitioners is not decided and consequential benefits are not extended within the time frame indicated above, the consequential benefits will carry interest at



the rate of 9% from the date of retirement till the date of actual payment and the same shall be borne out from the pockets of the Officers of the Education Department.

6. With the aforesaid, the writ petition stands allowed and disposed of.

**(Anil Kumar Upadhyay, J)**

spandey/-

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| AFR/NAFR          | NAFR       |
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