

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22133 of 2014

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Kamal Nath Choubey, S/o late Yamuna Choubey, R/o village Nawada Manapur,
P.S.- Govindganj, Distt.- E. Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department,
Government of Bihar at Patna.
2. The Director, Primary School Education, Government of Bihar at Patna.
3. The District Education Officer, E. Champaran at Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s : Mr. SC4- MD. R. HAQUE

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 19-11-2018

The present writ application has been filed for a
direction to the respondents to grant *Pravaran* Scale (Grade-III) to the
petitioner.

2. On behalf of the respondents, following stand has
been taken in para 6 to 8 of the counter affidavit, which is quoted for
ready reference:

6. That it is stated that the writ petitioner had
joined as an Matric Trained Teacher on 12.08.1972
and superannuated on 31.02.2002. According to
Section 7(1) of the Elementary Schools Teachers
Promotion Rules 1993 (hereinafter referred as Rule
1993) which is effective since 01.01.1986, a
seniority list is to be prepared for promotion in
Senior Selection Grade III (Prawaran) in which
primarily the Trained Graduate Teachers is to be



taken who have completed minimum 12 years of service in Grade II scale and thereafter Matric Trained Teachers should be taken who have completed minimum 18 years of service in Grade II scale, meaning thereby that in case of Graduate Trained Teachers, promotion should be given from 01.04.1998 and in case of Matric Trained Teachers, promotion should be given from 01.04.2004.

7. That it is stated that a seniority list of 3065 teachers was prepared by the office of the District Superintendent of Education, East Champaran, Motihari for grant of Senior Selection Grade Scale. The said seniority list was published in the daily news paper and objections were invited within 15 days. It is pertinent to mention here that only 20% (613) of the teachers of the seniority list were to be given the benefit of Senior Selection Grade. The fact further remains that in accordance with the Promotion Rule 1993 and in consonance with the departmental letter no. 161 dt. 28.02.2012, a meeting of District Elementary Teachers Promotion Committee, East Champaran was held on 30.12.2012 and according to the decision taken by the committee, Senior Selection Grade (Prawaran) has been given to the teachers concerned who have completed 12 years of service in Matric Trained Scale Grade II in case of having Graduate qualification and 18 years of service in Matric Trained Scale Grade II in case of having Martic/Intermediate qualification. It is worth considering that teachers under general category who were appointed up to 16.03.1981 and possess



Graduate qualification has been given Senior Selection Grade and teachers under general category who were appointed up to the year 1966 and possess Matric qualification has been given Senior Selection Grade and in the instant case the date of joining of the petitioner in Matric Trained Scale is 12.08.1972 and as such his claim has not been redressed in this promotion list on the basis of Matric Trained Scale. The writ petitioner has not placed his claim of passing of Graduation before the authorities concerned within the stipulated time period as he was outside the Headquarter and has filed his application for grant of Prawaran Scale alongwith Graduate Trained Scale before the District Educations Officer, East Champaran, Motihari on 26.05.2015.

8. That under the facts and circumstances stated above, this writ application is fit to be dismissed at the stage of admission itself.

3. It appears from the counter affidavit that the respondents have primarily tossed blame on the petitioner for not submitting his claim of passing Graduation before the authority concerned and as such no decision was taken.

4. In view of the aforesaid, the writ application is disposed of with liberty to the petitioner to file fresh representation along with a copy of this order enclosing the necessary documents to persuade the respondent Director, Primary Education with regard to



his entitlement for grant of *Pravaran* Scale.

5. In the event, such representation enclosing the relevant document is filed by the petitioner along with a copy of this order within a period of one month from today, the respondent Director, Primary Education is required to take appropriate decision and in case, such pay scale is granted to similarly circumstanced other, benefit of such pay scale be extended to the petitioner within a period of three months from the date of receipt of such representation.

6. The respondent Director, Primary Education is required to ensure payment of consequential benefit in view of the averment made in the writ application that many persons junior to the petitioner has been granted *Pravaran* Scale.

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

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	.11.2018
Transmission Date	

