

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25700 of 2013

=====

URMILA KUMARI W/O SRI JAGAT NARAYAN PRASAD SHARMA
RESIDENT OF MOHALLA GAZA SARAI, P.S. ISLAMPUR, DISTRICT
NALANDA.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Director, Primary Education, Government Of Bihar, Patna.
3. District Education Establishment Committee Nalanda Through Its Chairman,
District Education Officer, Nalanda.
4. District Programme Officer Establishment, Nalanda.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Binoy Kumar Singh, Advocate
		Ms. Sweta Raj, Advocate
For the Respondent/s	:	Mr. Gautam Bose, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 14-09-2018 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The grievance of the petitioner is discrimination in the matter of grant of graduate trained scale. Counsel appearing on behalf of the petitioner with reference to paragraph No. 7 submitted that many persons juniors to the petitioner was granted benefit of graduate trained scale ignoring the seniority of the petitioner, the petitioner was denied the benefit of B.A trained Pay Scale ignoring his seniority. Petitioner has filed representation before the D.E.O. Nalanda but no action was taken on the representation in the light of the chart mentioned in paragraph No. 7 which manifests that the persons appointed



after the petitioner have been granted graduate trained pay scale with effect from 16.08.1982 and 01.03.1988.

Considering the aforesaid, the Court is of the view that respondent cannot adopt pick and choose and grant graduate scale ignoring the case of the petitioner. Apprehension of the learned counsel for the petitioner is that now respondents are taking the plea that the promotion is not available to retired Teacher, Director Primary Education has issued a memo No. 4 dated 12.04.2010, whereby stand was taken that promotion cannot be granted with prospective effect. The decision of the Director is in the teeth of statutory rule and the decision of the Director cannot operation of the statutory rule. If the petitioner on account of seniority was entitled to grant of promotion but due to pick and choose and discrimination adopted by the respondent, juniors have been granted promotion and case was ignore then notwithstanding the petitioner has retired is entitled to such benefits.

With the aforesaid observation and direction the writ petition is disposed of. The respondent have to consider the case of the petitioner and if Yashoda Kumar, Raghubansh Pd. Singh and Manish were appointed subsequent to the petitioner and were granted the benefit of graduate trained scale there is no



justification to deny such benefit to the petitioner.

This writ petition has been filed on 23.12.2013 after service of two advance copies to the office of the Advocate General, but unfortunately till date no counter affidavit has been filed.

Necessary decision on the claim of the petitioner for graduate trained scale with all consequential benefits may be decided by the respondents within a maximum period of four months from the date of receipt/ production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

banti/-

U			
---	--	--	--

