

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.71 of 2016

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1. Lalit Kishore Tiwary Son of late Ram Bihari Tiwary Resident of Village- Baskatia, Po +P.s- Rohtas in the district of Rohtas.
 2. Mahangu Singh son of late Hari Singh resident of Village- Barana, Police Station- Kudra in the district of Kaimur.
 3. Ram Naresh Rai son of late Yogendra Rai Resident of Village+P.o- Bararhi, Police Station- Sasaram in the district of Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary-cum-Education Commissioner, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education Bihar Patna.
4. The Regional Deputy Director of Education, Patna Division, Patna.
5. The District Education Officer, Rohtas.
6. The District Programme Officer(Establishment) Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Advocate
For the Respondent/s	:	Mr. Gp14- D.K. Prasad

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 13-02-2018 Heard learned counsel for the petitioners and the counsel appearing on behalf of the State.

The grievance of the petitioners in the present writ petition is denial of B.Sc. Trained Scale from the date the petitioners were entitled and admittedly from the date juniors to the petitioners were granted such B.Sc. Trained Scale.

In the counter affidavit, the respondents have taken stand that the petitioners have approached this court after inordinate delay.



Mr. Prasad learned counsel appearing on behalf of the State submits that delay defeats remedy as well as the right and as such petitioners are not entitled to any relief in the present proceeding. The relief claimed by the petitioner is in relation to counting wrong in the nature of denial of trained scale which has been settled by the Apex Court that in the matter of continuing the cause of action, every month cause of action occurs and as such delay in filing the petition is no consequences.

Reference in this connection may be made to the judgment of Apex Court in the case **Tarsem Singh reported in 2008(8) SCC 648**. However, Mr. Prasad is justified in making statement that petitioners are not entitled to monetary benefit for the period preceeding three years of filing of writ petition in view of the judgment in Tarsem Singh(Supra).

Accordingly, the writ petition is disposed of with direction to the respondents to grant the benefit of B.Sc. Trained Scale with effect from the date juniors to the petitioners were granted such scale. So far as monetary benefit arising out of such decision is concerned in view of the judgment of the Apex Court, the petitioners are only entitled to monetary benefit it has to be worked out by the respondents from the date of three years



before the date of filing of the writ petition i.e. from 2013 as the writ petition was filed on 4.1.2016, the respondents are required to work out the entitlement of the petitioners and monetary benefit arising out of such decision within a maximum period of three months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition is disposed of.

(Anil Kumar Upadhyay, J)

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