

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16103 of 2012

=====

1. Udit Narayan Kanth, Son of Late Leela Nath Kanth, Resident of Village and P.O.
- Birauli, Via - Benipatti, P.S. - Benipatti, District - Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar.
2. The Director, Welfare Department , Government Of Bihar, Patna.
3. The Assistant Director, Welfare Department, Bihar, Patna.
4. The Deputy Director, Welfare Department, Bihar, Patna.
5. The Deputy Director, North Chhotanagpur Division, Hazaribagh, District – Hazaribagh.
6. The Head Master, The Government Scheduled Caste Girl Residential School, Bathanaha, District – Madhubani.
7. The Accountant General, Bihar, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Mahasweta Chatterjee, Advocate

For the Respondent/s : Mr. S. Raza Ahmad, AAG-9

Mr. Vishwambhar Prasad, A.C. to AAG-5.

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 06-09-2018

1. Heard the learned counsel for the petitioner and counsel appearing on behalf of the State.
2. Petitioner is aggrieved by the order contained as Annexure-10 dated 12.06.2010. The order was passed by the Director Scheduled Castes and Scheduled Tribes, Welfare Department, pursuant to the order of this Court passed in C.W.J.C. No.544 of 2002.
3. From the order contained as Annexure-10, it appears that



petitioner was appointed on 19.04.1982 and 75 teachers were appointed vide the office orders dated 19.11.1982 and vide office order dated 15.2.1984 respectively and they were granted the benefit of graduate pay-scale. The reason assigned for refusal of graduate pay-scale to the petitioner is that the petitioner was appointed pursuant to the advertisement of 1981 but he had not submitted the complete information and as such there was delay in appointment. In the meanwhile, the appointing authority has changed. The other reason for rejecting the claim was that the petitioner has failed to produce the document with regard to grant of graduate pay scale to Kiran Kumari who was appointed after petitioner was granted the benefit of pay scale with effect from 1984.

4. On deeper scrutiny of Anneuxre-10, it is apparent that it was passed without application of mind by the Director. There is no dispute that the petitioner pursuant to advertisement of 1981 and the other 75 persons were appointed on the basis of same advertisement on 19.11.1983 and 15.2.1984 but they were admitted to the benefit of graduate pay scale. There is no justification for non-grant of same scale to the petitioner who was appointed pursuant to the same advertisement of 1981 as teacher. The Director has not disputed the seniority of petitioner over Kiran Kumari and in view of the direction of this Court in C.W.J.C. No.544 of 2002, the respondents-Director



was required to examine whether junior to the petitioner, like Kiran Kumari was granted such benefit or not. The evasive discussion in the order contained in Annexure-10 is evasive and apologetic approach adopted by the respondent. If the petitioner was appointed pursuant to the advertisement of 1981 and other persons appointed pursuant to the said advertisement were granted the benefit of graduate pay scale including Kiran Kumari who was junior to the petitioner, there is no justification to deny the Graduate Trained scale to the petitioner. Accordingly, Annexure-10 is hereby quashed. The respondents are directed to grant the benefit of graduate pay scale to the petitioner from the date Kiran Kumari was granted such benefit within a maximum period of four months from the date of receipt / production of a copy of this order and grant all consequential benefits within the further period of one month.

5. With the aforesaid observation and direction, this writ petition is allowed and disposed of.

(Anil Kumar Upadhyay, J)

Sanjeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10/09/2018
Transmission Date	NA

