

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22284 of 2013

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Surendra Prasad, Son of Late Hanuman Prasad, Resident of Village - Jhankara, P.O.
and P.S. - Gopalpur, District - West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The Accountant General, Bihar, Patna
3. The Director, Secondary Education, Budh Marg, Patna
4. The Principal Secretary, Secondary Education, Govt. of Bihar, Patna
5. The Regional Deputy Director of Education, Patna
6. The District Education Officer, Bettiah, West Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

Mr. SC-27

Mr. Krishna Kant Tiwari, AC to SC-27

For the Accountant General: Mr. Kumar Priya Ranjan, Advocate

Mr. Niraj Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 11-09-2018

The present writ application has been filed on 01.11.2013 raising a grievance that the petitioner has been paid less than salary admissible to Matric Trained Teacher.

2. On 23.12.2014 six weeks time was granted to the respondent State to file counter affidavit. Thereafter the respondents have filed counter affidavit, but the petitioner has not filed any rejoinder to the counter affidavit.

3. On different dates, the case was listed for admission, but no one appear on behalf of the petitioner to assist the Court. Under the compelling circumstance, the Court directed to list



this case under the heading “For Dismissal” to provide one more opportunity to the petitioner to assist the Court. Unfortunately, even today no one has appeared on behalf of the petitioner.

4. Under the aforesaid circumstances, the Court is constrained to decide the writ application on the basis of the pleadings and materials available on the record.

5. The petitioner has admitted in the writ application that he was appointed in the erstwhile school on 01.06.1981. The School was subsequently taken over and the petitioner was not included in the list of trained teachers, whose services were taken over along with the take over of the school, as he was untrained. The petitioner filed C.W.J.C. No. 3030 of 1984, which was heard by this Court on 18.09.1984 and a direction was issued that the petitioner be treated as an employee of the State Government in the aforesaid school since 02.09.1982 and to pay salary.

6. From the pleadings, it appears that the petitioner has never obtained training certificate and he remained as untrained teacher and finally on 31.05.2010 the petitioner retired on attaining the age of superannuation.

7. Now the grievance of the petitioner is non-payment of increment. Admittedly, the petitioner retired as untrained teacher and under the rule benefit of trained teacher scale was only admissible



to trained teachers and not untrained teacher. Since, the petitioner has not improved his qualification and failed to obtain training certificate and as such the petitioner cannot be heard saying that he has not been paid the salary at par with the trained teacher, the question of parity in pay scale would depend upon parity in qualification, which is lacking in this case.

8. Since the petitioner was untrained teacher and he never improved qualification and failed to obtain training certificate. The petitioner cannot be heard saying that he was discriminated in the matter of payment and denied salary of trained teacher.

9. In the peculiar facts and circumstances of the case, the Court is not inclined to grant any indulgence. Accordingly, the writ application is dismissed.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.09.2018
Transmission Date	

