

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4619 of 2019

1. Anup Kumar, Son of Late Aniruddha Rai, Resident of Village-Pokhrera, Post Office-Sonbarsa, Police Station-Pachrukhi, District-Siwan. At present posted and working as an Assistant Teacher in Govt. Middle School Sarauti, Block-Pachrukhi, District-Siwan
2. Saroj Kumar Chaurasia, Son of Late Sitaram Prasad, Resident of Village-Sonbarsa, Police Station-G.B. Nagar Tarwara, District-Siwan. At present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Pagurkothi, Block-Pachrukhi, District-Siwan.
3. Ramchandra Ram, Son of Budhhiraj Ram, Resident of Village-Pengwara, Police Station-Pachrukhi, District-Siwan. At present posted and working as an Assistant Teacher in Govt. Middle School Sarauti, Block-Pachrukhi, District-Siwan.
4. Shatrughan Singh, Son of Late Ram Barai Singh, Resident of Village+ post office - Nayanpura, Police Station-Pachrukhi, District-Siwan. At present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Machhauta, Block-Daraunda, District-Siwan.
5. Shyam Bihari Singh, son of Bashishtha Singh, Resident of Village-Gauri, Police Station-Darauli, District-Siwan. At present posted and working as an Assistant Teacher in Govt. Upgraded Middle School Sadikpur (Kanya), Block-Pachrukhi, District-Siwan.
6. Vinod Kumar Singh, Son of Kamla Singh, Resident of Village-Sadikpur, Post Office +Police Station-Pachrukhi, District-Siwan. At present posted and working as an Assistant Teacher in Govt. Middle School Harsar Purvi, Block-Daraunda, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna
3. The Director, Education Department, Government of Bihar, Patna
4. The Regional Deputy Director of Education, Saran Division, Chapra
5. The District Education Officer, Siwan
6. The District Education-cum-the Chairman of District Teachers Promotion Committee, Siwan
7. The District Programme Officer (Establishment) Siwan
8. The District Programme Officer (Establishment)-cum-the Member Secretary of District Teachers Promotion Committee, Siwan
9. The Block Education Officer, Pachrukhi, District-Siwan.
10. The Block Education Officer, Daraunda, District-Siwan.

... .. Respondent/s

Appearance :



For the Petitioners : Mr. Umesh Kumar Mishra, Advocate
For the State : Mr. Ashutosh Ranjan Pandey, A.A.G. 15

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

4 22-10-2019 Heard learned counsel for the petitioners and learned
counsel appearing on behalf of the State.

2. The petitioners have come to this Court seeking
reliefs and an appropriate mandamus in the following terms :

“(a) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to promote the petitioners in Graduate Trained Pay Scale, as the petitioners have remained in Matric Trained Pay Scale for more than eight years of their service and as per Bihar Elementary Teacher Promotion Rules, 2011, the petitioners are entitled for Graduate Trained Pay Scale without any further delay.

(b) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to provide the Graduate Trained Pay Scale to the petitioners as they have made an application before the respondent authorities concerned for consideration for their promotion in Graduate Trained Pay Scale as they are entitled for the same and as Shitya Alankar from Deoghar Vidyapith is recognized degree equivalent to Graduation up to 2012 and subsequently extended upto 2016, and as petitioner no.1 has passed Sahitya Alankar from Hindi Vidyapith, Deoghar in the year 2008, petitioner no.2 in the year 2005, petitioner no.3 in the year 2008, petitioner no.4 in the year 1993 and



petitioner no.5 in the year 2006 itself and hence, they are entitled for promotion in Graduate Trained Pay Scale, as the degree of Sahitya Alankar of the petitioners is of prior to 2012 or 2016 and similarly situated teachers in the district of Siwan has been promoted in the graduate trained pay scale on the basis of degree of Sahitya Alankar since 31.10.2013 and the petitioners are also entitled for the same from due date i.e. from 31.10.2013.

(c) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned as alternative to consider the case and provide the same and similar benefits of Graduate Trained Pay Scale as similarly situated other teachers have been provided the same benefits on the basis of the degree of Sahitya Alankar from Deoghar Vidyapith and hence under the Bihar State Litigation Policy, 2011 4(C), the petitioners are entitled for same and similar benefits of Graduate Trained Pay Scale.

(d) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioners will be found entitled in the facts and circumstances of the case.”

3. At the very outset, learned counsel for the petitioners submits that this issue, which is before this Court in the present writ application, has been decided by the Division in the case of **Sanjay Kumar vs. State of Bihar**, reported in **2019 (4) BLJ 789** vide judgement dated 18.07.2019 passed in L.P.A. Nos. 894, 307 of 2016 and L.P.A. No.1210 of 2010.



4. The L.P.A. Court, while considering the degree of Sahityalankar and the application thereof for the purpose of appointment and promotion, has been pleased to held at paragraph 17 as follows:

“17. We may now proceed to consider the claim set forth in C.W.J.C. No. 16183 of 2012 that was referred to the Division Bench by a learned Single Judge as it raised the same issue and L.P.A. No. 894 of 2016. In these two matters the claim of the writ petitioners and the appellant respectively are with regard to promotional benefits in the higher scale of pay after having served for 8 years as an Assistant Teacher. They were denied promotional pay-scale only on the ground that they did not possess the minimum eligibility qualification as prescribed and were claiming benefits on the strength of the degree of Sahityalankar from Deoghar Hindi Vidyapeeth. In view of what has been concluded by us hereinabove, the petitioner of C.W.J.C. No. 16183 of 2012 and the appellant of L.P.A. No. 894 of 2016 are both entitled to the benefits of promotion and the same cannot be denied merely on the ground that they were possessed of an equivalent degree as referred to hereinabove. It is undisputed that these two are also in possession of the degree of Sahityalankar having been obtained prior to the year 2008. Accordingly, C.W.J.C. No. 16183 of 2012 and L.P.A. No. 894 of 2016 are allowed. The impugned judgment of the learned Single Judge dated 28.03.2016 is set aside. Since both the candidates have prayed for a mandamus, we accordingly direct the competent authority to pass an appropriate order in the light of above within three weeks from the date of presentation of the certified copy of the order served on them with



effect from the date they were entitled for such benefit together with all consequential benefits.”

5. This judgement has been fully accepted in the Full Bench judgment cited at **2019 (3) PLJR 1291 (Ramashankar Patel vs. State of Bihar)**, wherein at paragraph 46, the Court has also considered the same issue and has reiterated the earlier judgment, wherein it has been stated that by notification dated 17.04.2017 now even the degree obtained prior to 07.05.2012 and the appointment/promotion granted between 07.05.2012 and 08.04.2016 have also been saved.

6. In view of the aforementioned stand taken by this Court, the case of the present petitioners stands fully covered by these judgments and the prayer of the petitioners is allowed.

7. I accordingly dispose of this writ application with a direction to the authorities concerned to consider the case of the petitioners in the light of the aforementioned decisions as held by this Court. It would be appropriate and in the interest of justice that the case of the petitioners be decided within a period of six weeks from the date of receipt/production of a copy of this order.

(Anjana Mishra, J)

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