

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7980 of 2016

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Smt. Kiran Kumari, W/o Kaushal Kishore Prasad Singh, resident of village-
Gopalbad, P.S.- Sarmera, District- Nalanda

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Bihar Education Scheme Council, Patna, Bihar
3. The Collector, Nalanda
4. The District Education Officer, Nalanda
5. The District Programme Officer, Primary Education and Sarv Siksha
Abhiyan, Nalanda

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar Shrivastava, Advocate
For the Respondent/s	:	Mr. Vinay Kirti Singh, GA-3
		Mr. Vijay Kumar Verma, AC to GA-3
For the BEPC	:	Mr. Girijesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

6 25-09-2019 Heard learned counsel for the petitioner and the
respondents.

Earlier order was passed without the hearing of the
counsel for the B.E.P.C. and on the application for review filed
on behalf of B.E.P.C., the order was reviewed.

The grievance of the petitioner in the present writ
application is that notwithstanding the fact that the petitioner
has cleared the examination in compartmental, the respondents
have not extended the benefit, which was otherwise available to
a candidate, who have passed the regular examination. He
placed reliance on the judgment of the Division Bench dated



17.01.2018 in L.P.A. No. 1870 of 2015.

Mr. Girijesh Kumar, learned counsel appearing on behalf of B.E.P.C submits that the benefit of judgment in L.P.A. No. 1870 of 2015 is not available to the petitioner for the reason that aforesaid case was a case of regularly appointed teachers and the issue was involved as to grant of benefit of trained scale on passing examination in first attempt w.e.f. 2003 or any subsequent date. In the matter of grant of trained scale, the Court held out that the distinction between the teacher, who passed the examination in first attempt in the main examination and a teacher, who passed the examination in the compartmental was erroneous and the writ Court allowed the writ application being C.W.J.C. No2892 of 2013. The L.P.A. Court noticing the decision of the Single Judge held out that for the purpose of grant of trained scale, if the respondents have taken the decision that the benefit is admissible w.e.f. 2003, if the teacher has passed the examination in 1st attempt, the Division Bench accepted that the first attempt shall also include the teacher, who has cleared the examination in compartmental. The benefit of trained scale on passing training examination in 1st attempt cannot be equated with the situation in the present case where the appointment itself was engaged only for a period of one year



and after expiry of one year, the contract was renewed.

Mr. Girijesh Kumar submits that the post on which the petitioner was appointed on contractual basis initially for a period of one year, has now ceased, hence, no relief can be granted to the petitioner.

Having regard to the aforesaid fact, the Court is of the view that the Judgment of L.P.A. Court passed in L.P.A. No. 1870 of 2015 was rendered in the peculiar facts of the case where the benefit of trained scale was extended to a candidate, who was declared pass in 1st attempt and while considering the adjudication 1st attempt, the Court held out that passing in compartmental also falls in the category of first attempt. The decision, in the aforesaid fact, rendered by the learned Single Judge is of no help to the petitioner, who was initially on contractual basis for a period of one year. In contractual appointment, the benefit of judgment in L.P.A. No. 1870 of 2015 is not available.

The fact that others are continuing, who cleared the main examination also does not help the petitioner, as the petitioner was appointed not on regular post on regular basis, but on contractual ground and as such benefit of judgment in L.P.A. No. 1870 of 2015 is not available.



Accordingly, the Court does not find any merit in the
present writ application. It is accordingly, dismissed.

(Anil Kumar Upadhyay, J)

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