

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16404 of 2012

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1. Binit Anand S/O Late Premanand R/O Village- Aphahar, P.O- Apahar, P.S- Amnaur, District- Saran.
 2. Dilip Kumar S/O Late Basudeo Singh R/O Village- Karmopur Nayatola, P.O- Navanagar, P.S- Bidupur, District- Vaishali.
 3. Sanjay Kumar S/O Late Jagdeo Pandit R/O Village- Gobindpur, Bhakraha, P.O- Chaksidandar, P.S Rajapakar, District- Vaishali.
 4. Dasarath Pandit S/O Late Jagdeo Pandit R/O Village- Harpur Mukund, P.O- Bakhari, Supain, P.S- Rajapakar, District- Vaishali.
 5. Mukesh Kumar S/O Late Godhan Prasad Singh R/O Village- Sahdullapur, P.O- Sahadullapur, P.S- Ganga Bridge, District- Vaishali.
 6. Anand Kumar S/O Late Nawal Prasad R/O Village- Akabarpur, P.O- Akbarpur, P.S- Hilsa, District- Nalanda. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna
2. The Director, Primary Education Department, Govt. Of Bihar, Patna.
3. The Regional Deputy Director Of Education Tirhut Divsion, Muzaffarpur.
4. The District Education Officer, Vaishali.
5. The District Programme Officer Establishment Vaishali.
6. The Block Education Officer, Bidupur Block, District- Vaishali.
7. The Drawing And Disbursing Officer, Bidupur, District- Vaishali.
8. The Drawing And Disbursing Officer, Rajapakar, District- Vaishali. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shashi Bhushan Kumar
For the Respondent/s : Mr.Neelu Agrwal

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 20-02-2019

1. The present writ petition has been filed for directing the respondents to ensure payment of Matric Trained Scale to the petitioners w.e.f. 01.01.2003.

2. The short facts of the case according to the petitioners are that the petitioners herein were appointed on compassionate ground against the post of Assistant Teachers (Matric Un-trained Scale) in the Primary/ Middle school in the District of Vaishali in between the years 2001 to 2003. It is stated



that as per the resolution of the State Government dated 03.09.1997 issued by the Director, Primary Education Department-cum-Special Secretary, Secondary, Primary and Adult Education Department, it was directed that the teachers who were appointed on compassionate ground after 01.01.1986 would be entitled to Matric Trained Scale, in case of those teachers who possess higher educational qualification than the qualification of Matriculation and are un-trained teachers, however those appointed prior to 01.01.1986, were directed not to be granted Matric trained scale.

3. It is submitted that it was incumbent upon the respondents to arrange in-service teachers training to the petitioners within two years of their appointment but the respondents failed to do so in time, hence the petitioners herein should not be penalised and infact, should be granted Matric trained scale, not from the date on which they have completed training and passed the examination but from the date of their appointment.

4. *Per contra*, the learned counsel for the respondents, referring to the counter affidavit filed in the present case, has submitted that the petitioners were appointed as Assistant Teachers in between the year 2001 to 2003, however they have appeared in the Teachers Training Examination in the year 2006-07 and the results were published on 04.02.2008. It is submitted that the



Education Department, Government of Bihar has issued a resolution dated 29.07.2011, wherein it has been provided that the un-trained teachers who possess higher qualification and have passed the teachers training examination in first attempt, will be given Matric trained scale w.e.f. 01.01.2003, however those who have passed training examination in the second attempt, will be granted the Matric trained scale with effect from the date of appearing in the Teachers Training examination. Subsequently, another Circular dated 05.01.2015 was issued by the Education Department, Government of Bihar pertaining to those elementary teachers whose appointments were made under the Teachers Appointment Rules, 1991 and therein, it was provided as under :-

“(i) Under the Bihar Elementary School Appointment Rule, 1991, those higher qualified untrained teachers (including compassionate appointment) whose appointment is before 05.09.1997 (prior to the order passed by Hon’ble Supreme Court in S.L.P. no. 23187 of 1996 dated 05.09.1997) and who had appeared for Teachers Training Examination 2004 and have cleared in first attempt will be given matric trained scale notionally from 05.09.1999 to 30.09.2003 and financial benefit will be given from 01.10.2003.

(ii) It was further provided that those higher qualified teachers (including compassionate appointment) whose date of appointment is after 05.09.1997 and who had appeared for Teachers Training Examination in 2004 and had cleared in first attempt is also entitled for Matric Trained scale from 01.10.2003.

(iii) It was further provided that those



higher qualified untrained teachers (including compassionate appointment) who have appeared in Teachers Training Examination, 2004 and had not cleared/ passed or those teachers who had not appeared in the 2004 examination and passed in 2007 examination will get Matric Trained scale from the date of appearing in the examination i.e. 31.07.2007.

(iv) It was further provided that the scale of the higher qualified untrained teachers will be affected after order of the Hon'ble Court in Review Petition to be filed by the Education Department against order dated 08.08.2012 passed in M.J.C. no. 4075 of 2011."

5. The learned counsel for the respondents has thus submitted that the aforesaid stand taken by the respondents in the counter affidavit would demonstrate that the petitioners cannot be given Matric Trained scale w.e.f. 01.10.2003 since they have passed the Teachers Training Examination only in the year 2008. It has further been submitted that the examination had also been held in the year 2004 but the petitioners had failed to appear in the said examination, hence the plea of the petitioners that the State Government did not take steps to hold the examination earlier, is ill-founded.

6. *Per contra*, the learned counsel appearing for the petitioners upon being put a query as to why the petitioners did not appear in the year 2004 examination, no reply thereof could be given to this Court.



7. Having regard to the facts and circumstances of the present case and for the reasons mentioned hereinabove, this Court finds that since no reason whatsoever has been furnished by the petitioners for not appearing in the 2004 examination, they cannot get the benefit in terms of the aforesaid Circular dated 05.01.2015, issued by the Joint Secretary to the Government, Education Department, Government of Bihar, Patna. At best, the petitioners can be granted the Matric Trained Scale w.e.f. the date of appearing in the examination i.e. 31.07.2007. Hence, this Court does not find any merit in the present writ petition, accordingly the same is dismissed, however without any order as to costs.

(Mohit Kumar Shah, J)

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CAV DATE	NA
Uploading Date	29.05.2019
Transmission Date	NA

