

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3727 of 2015

1. Vinay Kumar Singh @ Binay Kumar Singh S/o- Late Sitaram Singh, Village P.O.- Kalyanpur, P.S.- Bihiyan, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Urdu Primary School Pakari, District- Bhojpur Ara.
2. Sarvanand Pandey, S/o- Late Rameshwar Pandey, Village- Garhatha, P.O.- Shivpur, P.S.- Piro, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Primary School Bhaluhipur, District- Bhojpur Ara.
3. Sanjeev Kumar Singh, S/o- Sri Lalan Prasad Singh, Village P.O.- Bihta, P.S.- Imadpur, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Middle School Zamira, District- Bhojpur Ara.
4. Baban Prasad Singh, S/o- Late Kaviraj Singh, Village P.O.- Ekwari, P.S.- Sahar, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Primary School Jadopur, District- Bhojpur Ara.
5. Manoj Kumar Singh, S/o- Late Awadh Bihari Singh, Village P.O.- Kurmuri, P.S.- Sikarhata, Tarari, District- Bhojpur Ara, Presently Posted as Assistant Teacher At Upgraded Middle School Bhelai, Udwant Nagar, District- Bhojpur Ara.
6. Ashok Kumar Singh, S/o- Late Bhola Singh, Village P.O.- Masoorhi, P.S.- Jagdishpur, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Middle School Babhaniyanv, Jagdishpur, District- Bhojpur Ara.
7. Ajit Kumar Pandey, S/o- late Jivanandan Pandey, Village P.O.- Babhanganwa, P.S.- Barhara, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Middle School Dhudhuan, Ara Muffasil Uttari Bhojpur, District- Bhojpur Ara.
8. Deepak Prasad Singh, S/o- Late Chhavinath Singh, Village- Mothi, P.O.- Rajeyan, P.S.- Piro, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Kanya Primary School Karisath, Udwant Nagar District- Bhojpur Ara.
9. Sri Raju Kumar, S/o- Late Brij Bihari Sharma, Village P.O.- Kosiya, P.S.- Sahar, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Upgraded Middle School Chaurai, Udwant Nagar, District- Bhojpur Ara.
10. Amritesh Kumar, S/o- Sri Indradeo Singh, Village P.O.- Jethwar, P.S.- Tarari, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Primary School Chandwa, Ara, District- Bhojpur Ara.
11. Pradeep Kumar Choudhary, S/o- Late Rudal Chaudhary, Village P.O.- Dalippur, P.S.- Dhangai, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Sanskrit Primary School Dalippur, Jagdishpur, District- Bhojpur Ara.
12. Jai Narayan Singh, S/o- Late Sheetal Singh, Village P.O.- Nonar, P.S.- Piro, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Middle School Hasan Bazar, Piro, District- Bhojpur Ara.
13. Jai Prakash Prasad, S/o- Sri Shiv Prasann Ram, Village P.O.- Bachari, P.S.- Piro, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Middle School Machrukhiya, Piro, District- Bhojpur Ara.



14. Md. Kamrul Hasan, S/o- Late Md. Nurul Hasan, Village P.O.- Anaaith, P.S.- Nawada Ara, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Upgraded Middle School Alipur, Ara, District- Bhojpur Ara.
15. Md. Naushad Ali, S/o- Md. Yusuf, Village P.O.- Kaab, P.S.- BikramRani Talab, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Primary School Dumariyan, Koilwar, District- Bhojpur Ara.
16. Md. Shamim, S/o- Abdul Shakur, Village P.O.- Daulatpur, P.S.- Ara Muffasil, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Urdu Primary School Makhdumpur, Dumra, District- Bhojpur Ara.
17. Dadan Choudhary, S/o- Satyanarayan Choudhary, Village- Chaturbhuj Baraon, P.O.- Jituara, P.S.- Piro, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Upgraded Middle School Kusumha, Udwant Nagar, District- Bhojpur Ara.
18. Birendra Kumar Singh, S/o- Late Bindeshwari Singh, Village- Mohkampur, P.O.- Bishunpura Dumariya, P.S.- Koilwar, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Primary School Lakshan Ray ke Tola, Koilwar, District- Bhojpur Ara.
19. Lal Bahadur Sharma, S/o- Late Kashi Nath Sharma, Village P.O. P.S.- Tarai, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Primary School Mahatwaniyan, Udwant Nagar, District- Bhojpur Ara.
20. Harendra Kumar Srivastav, S/o- Late Tarkeshwar Prasad, Village- Akhtiyarpur, P.O.- Chandwa, P.S.- Bihiyan, District- Bhojpur Ara, Presently Posted as Assistant Teacher Middle School Udwant Nagar, Udwant Nagar, District- Bhojpur Ara.
21. Rajendra Kumar Srivastav, S/o- Late Tarkeshwar Prasad, Village- Akhtiyarpur Barkagaon, P.O.- Chandwan, P.S.- Udwant Nagar, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Kanya Middle School Udwant Nagar, District- Bhojpur Ara.
22. Amar Nath Prasad, S/o- Dhupan Prasad, Village P.O.- Karnamepur, P.S.- Shahpur, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Y.V.P. Middle School Moulabah Ara, District- Bhojpur Ara.
23. Rajesh Kumar Singh, S/o- late Ram Darshan Singh, Village- Lal Bihari Singh ke Tola P.O.- Bulipur, P.S.- Jagdishpur, District- Bhojpur Ara, Presently Posted as Assistant Teacher at U.M.S. Rathadih Shisha Tola, Jagdishpur, District- Bhojpur Ara.
24. Angad Kumar, S/o- Sri Ramrekha Thaku, Village- Sarangpur, P.O.- Barka Dumra, P.S.- Ara Muffasil, District- Bhojpur Ara, Presently Posted as Assistant Teacher at U.M.S. Baghakol , Ara Muffasil North, District- Bhojpur Ara.
25. Md. Asadullah Haidar, S/o- Md. Jafarullah, Village- Kajitola, P.O.- Ara Chowk, P.S.- Ara Town, District- Bhojpur Ara, Presently Posted as Assistant Teacher at U.M.S. Bhopatpur, Koilwar, District- Bhojpur Ara.



26. Md. Ashfaq Ali, S/o- Md. Yusuf Ali, Village- Kaji Tola, P.O.- Ara, P.S.- Ara Town, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Middle School Urdu Barahbatra, Ara, District- Bhojpur Ara.
27. Sanjay Kumar, S/o- Sri Ram Prayag Singh, Village- Vashishtha Puri P.O.- Chandwan, P.S.- Bihiyan, District- Bhojpur, Presently Posted as Assistant Teacher at U.M.S. Jogwaliya, Ara North, District- Bhojpur.
28. Sri Ram Prasad, S/o- Narsingh Prasad, Village P.O.- Ekauna, P.S.- Simari, District- Buxar, Presently Posted as Assistant Teacher at U.M.S. Shobhi Dumra, Ara Muffasil North, District- Bhojpur Ara.
29. Md. Rashid Ansari, S/o- Abdul Matin Ansari, Village P.O.- Jagdishpur, P.S.- Jagdishpur, District- Bhojpur Ara, Presently Posted as Assistant Teacher at U.M.S. Angaruan, Jagdishpur, District- Bhojpur Ara.
30. Nasim Akhtar, S/o- Jagan Miyan, R/o- New Millat Colony, Phase -2, P.O. P.S.- Phulwari Sharif, District- Patna , Presently Posted as Assistant Teacher atn U.M.S. Kolhrampur, Barhara, District- Bhojpur Ara.
31. Ashok Kumar Choudhary, S/o- Late Dinanath Choudhary, Village- Chauranti, P.O.- Awarhi, P.S.- Dawat, District- Rohtas, Presently Posted as Assistant Teacher at Middle School Khananikalan, Piro, District- Bhojpur Ara.
32. Dhananjay Kumar Dhiraj, S/o- Late Ram Sakal Singh, Village- Govind Tola, P.O.- Bamhwar, P.S.- Piro, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Primary School Kalyanpur, Udwantnagar, District- Bhojpur Ara.
33. Sushil Kumar Sudhakar, S/o- Late Nageshwar Singh, Village- Lakshmipur, P.O.- Bairahi, P.S.- Jagdishpur, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Dulhinganj, Jagdishpur, East District- Bhojpur Ara.
34. Amrendra Kumar Singh, S/o- Late Dwarika Singh, Village P.O.- Bairahi, P.S.- Jagdishpur, District- Bhojpur Ara, Presently Posted as Assistant Teacher at Middle School Kataiyan, Block- Bihiyan, District- Bhojpur Ara.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna
2. The Director Primary Education, Education Department, Government of Bihar, Patna.
3. The District Magistrate, District- Bhojpur at Ara.
4. The Regional Deputy Director of Education, Patna Division, Patna
5. The District Education Officer, District- Bhojpur at Ara.
6. The District Program Officer Establishment, District- Bhojpur at Ara.
7. All the Headmasters-Cum-Drawing and Disbursing Officer of the Petitioners' School, District- Bhojpur at Ara

... .. Respondent/s



Appearance :

For the Petitioner/s	:	Mr. Avanindra Kumar Jha
	:	Mr. Purushottam Kr. Jha
For the Respondent/s	:	Mr. Ashutosh Ranjay Pandey
	:	Mr. Priyadarshi Matri Sharan

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 27-05-2019

1. As far as the writ petition *qua* the petitioners no. 5, 6, 11, 20, 23, 24, 29, 30 and 33 are concerned, the same has already been allowed by an order dated 09.02.2018 passed in the present case, hence the said order would govern the case of the said petitioners.

2. Now, coming to the rest of the petitioners, it is the prayer of the said writ petitioners to direct the respondent-authorities to grant matric trained scale of pay w.e.f. 31.07.2007 i.e. the date of sitting in the examination of the in-service Teachers Training Examination held in the year, 2007 (i.e. second time). It is further prayed that the said petitioners be granted notional benefit from a prior date, as has been granted to the writ petitioners of a case, judgment whereof has been reported in **2010(4) PLJR 732 (The State of Bihar and others v. Chandra Kant and others)** as also in accordance with the judgment rendered by the learned Division Bench ***dated 10.12.2018 in L.P.A. no. 1409 of 2017.***



3. As far as the present case is concerned, the remaining petitioners can be categorized into two categories: (i) those who have been appointed prior to 05.09.1997 and (ii) those who have been appointed thereafter. First of all, coming to the case of those petitioners who have been appointed prior to 05.09.1997 i.e. petitioners no. 1 to 4, 7 to 10, 12 to 19, 21, 22 and 34, it would suffice to state that since they had appeared in the in-service Teachers Training Examination held on 31.07.2007 (i.e. second time), they would be governed by the judgment rendered by the learned Division Bench on 10.12.2018 in ***L.P.A. no. 1409 of 2017 (Raj Narain Singh and others v. State of Bihar and others)*** and the one dated 13.05.2015 passed in ***CWJC no. 2892 of 2013 (Brajesh Kumar and another v. State of Bihar and others)***, hence the said petitioners would be entitled to notional benefits w.e.f. 05.09.1999 and the actual benefits with effect from the date of sitting in the second exam i.e. 31.07.2007. The learned counsel for the State does not dispute the aforesaid position, as existing on facts as also in law, hence the writ petition stands allowed on the aforesaid terms.

4. Now coming to the remaining petitioners no. 25 to 28 and 31 to 32, since they have been appointed after



05.09.1997, applying the policy of the State Government, they would be entitled to notional benefit w.e.f. 01.10.2003 and actual benefit from the date of sitting in the second exam of the in-service Teachers Training Examination i.e. w.e.f. 31.07.2007, in terms of the judgment rendered by the learned Division Bench of this Court dated 10.12.2018 passed in L.P.A. no. 1409 of 2017 as also in terms of the Government Circular dated 05.01.2015. The aforesaid position, as existing in law as also on facts, is not disputed by the learned counsel appearing for the respondents, hence the case of the said petitioners is allowed on the aforesaid terms with a direction that they would be entitled to matric trained scale w.e.f. 01.10.2003 on notional basis and w.e.f. 31.07.2007 on actual basis.

5. Having regard to the law laid down by the Hon'ble Apex Court in a judgment rendered in the case of *Syed Abdul Qadir & Ors. vs State Of Bihar & Ors.* reported in *(2009) 3 SCC 475*, since the petitioners have not either misrepresented or played fraud upon the respondent- authorities for the purposes of grant of higher pay scale, the respondents would not be entitled to recover the alleged excess salary paid by them on account of their own



mistakes.

6. The writ petition stands allowed on the aforesaid terms.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.05.2019
Transmission Date	NA

