

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23421 of 2013

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1. Ravindra Kumar, Son Of Rambali Prasad Resident Of Mohalla - Narayan Nagar, Teachers Colony Busunda Road, Manpur, P.S. - Muffasil, District - Gaya
 2. Bhim Prasad Son Of Late Rajkeshwar Lal Resident Of Mohalla - Makhlotganj, Mahibali Lane, P.S. - Kotwali, District - Gaya
 3. Rajesh Kumar Son Of Sri Raghunath Prasad Resident Of Mohalla - Nae Godown, P.S. - Kotwali, District - Gaya
 4. Dhananjay Prasad Son Of Sri Tarni Prasad Resident Of Village - Gurua, P.S. - Gurua, District - Gaya
 5. Satendra Paswan Son Of Late Ramkhelawan Paswan Resident Of Village - Mohamdpur, P.O. - Musapur, P.S. - Khijarsarai, District - Gaya

... .. Petitioner/s

Versus

1. The State Of Bihar, through Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The District Magistrate, Gaya, District - Gaya
3. The Chief Secretary Education Department, Government Of Bihar, Patna, District - Patna
4. The Director Education Department, Government Of Bihar, Patna, District - Patna
5. The Regional Deputy Director Of Education, Government Of Bihar, Patna
6. The District Education Officer, Gaya, District - Gaya
7. District Programme Officer, Establishment Section, Gaya, District - Gaya
8. District Accounts Officer, Education Department, Gaya, District - Gaya
9. Drawing and Disbursing Officer-Cum-Head Master, Middle School, Manpur Adda Manpur, District - Gaya
10. Block Education Officer, Manpur, District - Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Avanindra Kumar Jha, Advocate
For the Respondent/s : Mrs. Nutan Sahay, AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 16-05-2019

Heard the parties.



2. At the out set, learned counsel for the petitioners seeks permission to withdraw the writ petition qua the petitioner no.4 with liberty to approach the Principal Secretary, Department of Education, Government of Bihar, Patna for redressal of his grievances by filing of a representation, in view of the fact that admittedly, he has passed in the second examination and not in the compartmental examination held in the year 2007, pursuant to the Teachers Training Examination, 2004. It is further submitted that the case of the petitioner no. 4 is governed by subsequent judgments pronounced from time to time, by this Court, hence, the petitioner would approach the Principal Secretary, Education Department to impress upon him to grant appropriate relief to him.

3. Accordingly, the present writ petition qua the petitioner no.4 is disposed of as withdrawn with liberty to the petitioner no. 4 to approach the Principal Secretary, Department of Education, Government of Bihar, Patna.

4. At the juncture, the learned counsel for the petitioners seeks permission to implead the Principal Secretary, Department of Education, Government of Bihar, Patna as party respondent no.11 to the present writ petition. Permission is granted. Needful be done during the course of the day.



5. Now, adverting to the cases of the remaining petitioners, a prayer has been made in the writ petition for quashing the order dated 02.11.2013 contained in Memo No. 7925, issued by the District Education Officer, Establishment, Gaya, whereby and whereunder, the promotion of the petitioners in Graduate Trained Teachers' scale of pay has been cancelled and they have been directed to join in the respective Middle Schools, where they were posted prior to grant of promotion in the graduate trained scale of pay.

6. Learned counsel for the petitioners submits that the present case is squarely covered by a judgment rendered by a coordinate Bench of this Court dated 13.05.2015 passed in C.W.J.C. No. 2892 of 2013, paragraphs no. 16 to 22, whereof, are produced here-in-below:

16. There cannot be any quarrel with the stand of the State with regard to all such candidates who either failed in the examination conducted in the year 2004 in the entirety or just did not to sit or got expelled from the examination conducted in the year 2004. Such candidates cannot be treated to be candidates, who 'attempted' to pass the training examination. Since Grant of matric-trained-scale is integral to passing of training examination, no candidate, therefore, can claim as a matter of right grant of matric-trained-scale without actually passing the examination in toto.

17. Those, who passed the training examination by sitting in examinations held in the year



2007, would be treated to be candidates, who have passed the examination in the second attempt. For them, the State Government has extended the benefit from the date of the examination, i.e., 31.07.2007. But in the case of such candidates who had failed in only one or two papers in the 2004 examination and were allowed to appear in the year 2007 as a compartmental candidate, their case falls in different class. By understanding of the word “compartment” and the various regulations, rules and directives in relation to conduct of compartmental examination, there is no other view except one that a compartmental examination is part and parcel of the main examination and they are like conjoint twins.

18. The advertisement of the Bihar School Examination Board also indicates that such candidates will be treated as compartmental candidates. If this be so, then the claim of these category of petitioners have to be considered as those belonging to the same class of candidates, who passed the training examination in the first attempt, meaning thereby that they will get the pay-scale from 01.10.2003. The case of such candidates, therefore, who sat in the compartmental examination and which was delayed, because of reasons attributable to the State Government or Examination Board, will have to be treated as part and parcel of such successful candidates, who were successful in the year 2004 examination.

19. The Court therefore, gives a direction that all such candidates, including these petitioners, whose claim will be individually verified whether they were compartmental examinees of the 2007 examination and who have passed their compartmental examination, conducted in the year 2007 would be treated to have passed in the first attempt, i.e., 2004 and would be entitled to pay-scale from 01.10.2003.



20. No recovery or deduction from salary, therefore, is required to be made from such candidates and if it has been made it is required to be either refunded or credited into the account of the petitioners or such candidates.

21. It is made clear that above decision has been rendered with regard to all such class of persons irrespective of the fact whether they have approached the High Court through the writ application or not, because the State must follow a uniform policy and cannot be seem to be encouraging litigation by compelling individuals to approach the Court for similar reliefs.

22. The writ applications, therefore, are allowed in terms of the above reiterating the fact that such candidates, who sat in the examination in the 2004, failed in some papers and were allowed to sit as a compartmental examinees, held in the year 2007, would be treated to have passed the examination in the first attempt itself and their entitlement of pay-scale will be from 01.10.2003 and not from the date they sat for the examination held in the year 2007, i.e., 31.07.2007.

All the writ applications are allowed in terms of the above.

7. Learned counsel for the petitioners further submits that the aforesaid judgment rendered by a coordinate Bench of this Court dated 13.05.2015 has been upheld by the learned Division Bench in LPA No. 1870 of 2015 (State of Bihar & Ors. Vs. Brajesh Kumar & Others) by a judgment dated 17.01.2018. Thus, the contention of the learned counsel appearing for the petitioners is that those employees who were compartment examinees of the 2004 batch in the examination held in the year 2007 and who have



passed their compartmental examination conducted in the year 2007, would be treated to have passed in the first attempt i.e. in the 2004 examination and would be entitled to the enhanced pay scale w.e.f. 01.10.2003.

8. Per contra, learned counsel respondent has submitted that the Department is seeking guidelines from the Department of Education, Government of Bihar and will do the needful, as soon as, the instructions are given to the Department.

9. Having regard the facts and circumstances of the case, as also considering the ratio of the aforesaid judgments rendered by a coordinate Bench of this Court in C.W.J.C. No. 2892 of 2013 and the one delivered by the learned Division Bench of this Court in L.P.A. No. 1870 of 2015, as upheld by the Hon'ble Apex Court, this Court is of the view that the petitioner nos. 1 to 3 and 5 are entitled to the same relief. Hence, the writ petition of the said petitioners is allowed and the respondent no.7 i.e. State Programme Officer, Establishment, Gaya is directed to consider the respective facts of the case of the said petitioners in light of the aforesaid judgments rendered by this Court and in case, it is found that the said petitioners have also passed the compartment examination held in the year 2007 pertaining to the main examination in which they had appeared in the year 2004, similar



benefits as have been granted to the writ petitioners of the aforesaid cases, shall also be extended to the present petitioners and no recovery or deductions from salary shall be made, as far as the amount of salary already paid to them is concerned.

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

(Mohit Kumar Shah, J)

khushbu/
S. Katyayan/-

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

