

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17188 of 2019

1. Pankaj Kumar Choudhary Son of Ramswarup Choudhary Resident of Village-Phensaha, P.O.-Ghordor, P.S.-Salkhua, District-Saharsa. are Working Middle School, Mubarakpur, Gram Panchayat-Mobarakpur, Block-Salkhua, P.S.-Salkhua, District-Saharsa.
2. Meena KUMari D/o Laxmi Ram Resident of Village-Mobarakpur, P.S.-Salkhua, District-Saharsa. are Working Middle School, Mubarakpur, Gram Panchayat-Mobarakpur, Block-Salkhua, P.S.-Salkhua, District-Saharsa.
3. Vijaya Lakshmi Yadav Wife of Manish Kumar Rana Resident of Village-Jibachhpur (Pandey Tola), Ward No.1, P.S.-Gamhariya at Present Residing at Village-Mobarakpur, P.S.-Salkhua, District-Saharsa., are Working Middle School, Mubarakpur, Gram Panchayat-Mobarakpur, Block-Salkhua, P.S.-Salkhua, District-Saharsa.
4. Md. Yahya Azmi Son of Md. Isa Azmi, Resident of Village-Phensaha, P.O.-Ghordor, P.S.-Salkhua, District-Saharsa. are Working Present Primary School, Gorgama, Gram Panchayat-Mobarakpur, Block-Salkhua, District-Saharsa.
5. Md. Farmood Alam, Son of Md. Nazir Resident of Village-Camp Tola, Barail Millik, P.S.-Supaul, District-Supaul.
6. Rabia Khatoon, D/o Md. Ashraf Ali Resident of Village-Mobarakpur, P.S.-Salkhua, District-Saharsa, are Working Present Primary School, Gorgama, Gram Panchayat-Mobarakpur, Block-Salkhua, District-Saharsa.
7. Maimuna Khatton Wife of Khallaque Resident of Village-Mobarakpur, P.S.-Salkhua, District-Saharsa, are Working Present Primary School, Gorgama, Gram Panchayat-Mobarakpur, Block-Salkhua, District-Saharsa.
8. Bibi Suda Wife of Md. Abul Aas Resident of Village-Mobarakpur, P.S.-Salkhua, District-Saharsa, are Working Present Primary School, Gorgama, Gram Panchayat-Mobarakpur, Block-Salkhua, District-Saharsa.
9. Mossarat Bano, Wife of Omair, Resident of Village-Mobarakpur, P.S.-Salkhua, District-Saharsa, are Working Present Primary School, Gorgama, Gram Panchayat-Mobarakpur, Block-Salkhua, District-Saharsa.
10. Pravin Kumar Pravin Son of Sita Sharan Baitha Resident of Village-P.O. Tariyama, P.S.-Bakhtiyarpur, District-Saharsa, at Present Working at New Primary School, Gorgama, Gorgama(Muslim Tola), Gram Panchayat-Mobarakpur, Block-Salkhua, P.S.-Salkhua, District-Saharsa.
11. Manoj Kumar Hembrum Son of C2019hhaku Hembrum, Resident of Village-Basia Ghat, P.O.-P.S.-Bihra, District-Saharsa.
12. Lila Kumari D/o Baleshwar Pandit Resident of Village-Gorgama, P.O.-Ghordour, P.S.-Salkhua, District-Saharsa, petitioner No. 11 and 12 at Present Working at Urdu Middle School, Phensaha, Gram Panchayat-Mobarakpur, Block-P.S.-Salkhua, District-Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Govt.



of Bihar, Patna.

2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director Primary Education, Govt. of Bihar, Patna.
4. The District Education Officer, Saharsa, District-Saharsa.
5. The District Programme Officer (Estab.), Saharsa, District-Saharsa.
6. The Block Education Officer, Salkhua, District-Saharsa.
7. The Block Development Officer, Salkhua, District-Saharsa.
8. The Panchayat Secretary, Gram Panchayat-Mobarakpur, Block-Salkhua, District-Saharsa.
9. The Mukhiya of the Gram Panchayat, Mobarakpur, Block-Salkhua, District-Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra, Advocate
For the Respondent/s : Mr.Smt. Binita Singh (Sc28)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 23-08-2019 The issue raised in the present writ petition is no more res integra. Similar issue was considered by this Court in CWJC No. 14646 of 2017 and analogous cases and vide oral judgment dated 9.4.2018 this Court has held out that the petitioner may not be made to suffer on account of lapse of the respondents in terminating the petitioner and reinstate the petitioner. However, the Court noticing totality of the fact situation has passed the following order:-

“9. In the totality of the facts situation, the Court is of the view that the petitioners, for the period they have worked pursuant to initial appointment, are entitled to payment of salary, so far as the period during which



petitioners were kept out of employment due to direction of the Writ Court and affirmed by the LPA Court, petitioners are not entitled to any monetary benefit, however, the period should be counted to the length of service and teaching experience, which may be available for the petitioners for acquiring other benefit, which is otherwise permissible under the law.

10. In fact, the Division bench of this Court in the case of Prakash Choudhary Vs. State of Bihar and ors, reported in 2012 (2) PLJR 767 has noticed the similar circumstance where Panchayat Teacher was removed on the ground that merit list was ignored and the Division bench in L.P.A. No. 109 of 2011 noticing the fact that the appellant was entitled to be appointed as Panchayat Teacher on account of his merit directed for grant of seniority from the date of initial appointment and all consequential benefits except payment of arrears of salary. In the aforesaid circumstances, the appellant is entitled to benefit of pay fixation and other benefits counting the period during the petitioners were put out of job.

11. In view of the above, the writ applications are allowed to the extent indicated hereinabove.

12. The respondents are directed to grant



benefit of seniority and continuity in service, except the monetary benefit. It is needless to state here that the petitioners are entitled to payment of salary, for which they have actually worked.”

In view of the above, the present writ petition is allowed in similar terms.

(Anil Kumar Upadhyay, J)

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