

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22191 of 2019

=====

Ram Prasad Thakur, son of Late Ramdeo Thakur, resident of Village- Mile,
P.O.- Bhairpure Deorhi, P.S.- Bidupur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner -cum- Secretary Department of Human Resource, Development, Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The District Education Establishment Committee Through its Chairman, District Magistrate, District- Vaishali at Hajipur.
4. The District Programme Officer Vaishali at Hajipur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Damodar Prasad Tiwary, Advocate
For the Respondent/s : Mr. Ranjan Kumar, AC to GA-12

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 23-01-2020 The petitioner has challenged the order dated 30.05.2019 passed by the District Programme Officer (Establishment), Vaishali whereby the prayer of the petitioner for granting him scale which was granted to teachers junior to him viz. Bhubneshwar Rai, Anirudh Prasad Singh, Shiv Chandra Sah, Sakaldeo Mehto and Narendra Prasad Singh, has been rejected on the ground that they were appointed as Inter trained teachers in the year 1979 on the scale of Rs. 160/- per month whereas the petitioner was appointed on Matric trained scale with the salary of Rs. 150/- per month.



It appears that the petitioner had earlier approached this Court for grant of Intermediate trained scale vide C.W.J.C. No. 243 of 2008 which stood disposed off by order dated 24.08.2010 with a direction that in view of the judgment of full *Bench in Ram Nath Prasad Vs. State of Bihar (L.P.A. No. 985 of 1996)*, the case of the petitioner be reviewed for grant of Intermediate trained scale and seniority in view of the exercise done by the respondents as per the judgment of the full Bench.

When no order was passed, the petitioner preferred a contempt petition vide M.J.C. No. 2860 of 2018 which stood disposed off in view of the fact that an order dated 30.05.2019 (impugned in the present petition) had already been passed.

In the full Bench judgment of *Ram Nath Prasad Singh Vs. State of Bihar (L.P.A. No. 985 of 1996)*, a common question had arisen whether science and arts teachers belong to two different cadres in the elementary



school. There were two conflicting decisions requiring an authoritative pronouncement by the larger Bench. The Full Bench took note of the fact that the government, by virtue of powers conferred under Section 8 of the Bihar Non-Government Elementary Schools (Taking Over of Control) Act, 1976 published guidelines with regard to appointment and promotion of teachers in supersession of all previous rules and teachers were basically divided in three grades viz. Matric trained teachers; Inter trained teachers and Graduate trained teachers. The rule further provides that only the science teachers in grade-III will be the Headmasters in the primary school.

For brevity, the grades were divided into eight categories. Grade-I, II and III included Matric trained: basic scale, senior scale and selection grade scales. These three grades did not make any distinction between arts and science teachers. It is only at the stage of Grade-IV, which included trained arts graduate scale and trained science graduate scale, which was similar in both



the cases. It is at this stage that a distinction between the science and arts teachers was made.

Grade-V and VI included trained graduate: senior and selection scale. Grade-VII and VIII comprised the middle school's Headmaster's basic and senior scale.

The promotion rules of 1993 further provided conditions for promotion. By virtue of the aforesaid rule, only those trained graduate teachers who had completed 12 years of service in Grade-II would be considered whereafter matric trained teachers who had completed 18 minimum years of service in Grade-II would be placed.

The second seniority list which would be relevant for promotion to Grade-IV would be prepared separately for arts and science teachers. In this category, teachers in trained graduate scale working in Grade-III, II and I who had completed minimum of 8 years of service in Grade-I would be considered.

The further promotion rules were provided in



separate seniority list.

The Full Bench, by referring to all the rules and the orders passed by different Benches of this Court came to the view that a fresh seniority list ought to be prepared in accordance with the promotion rules of 1993 and joint seniority list in accordance with a decision of the Division Bench in *Naresh Jha & Ors Vs. State of Bihar* reported in 1994(2) PLJR-348.

The Government was directed to prepare a fresh list and make consequential promotions and transfers according to the law.

It appears that pursuant to the direction passed by this Court in C.W.J.C. No. 243 of 2008 (supra), the claim of the petitioner for being given a scale similar to such Inter trained teachers was considered but the claim was rejected on the ground that all those teachers who were granted Inter trained scale were actually appointed on such scale which was higher than the Matric trained scale on which the petitioner was appointed.



The District Programme Officer (Establishment) also found that petitioner was appointed on Matric trained scale on 14.11.1977. So, after 10 years of his service, he was granted first time bound promotion on 14.11.1987 and was given the selection grade after 24 years of service on 14.11.2001.

The petitioner superannuated on 30.09.2006.

The records reveal that no person junior to the petitioner, who was appointed on Matric trained scale was ever given the Intermediate trained scale.

Taking these facts into account, the claim of the petitioner has been rejected.

This Court finds no fault with the aforesaid decision of the District Programme Officer (Establishment), Vaishali.

The petition has no merits and is dismissed.

(Ashutosh Kumar, J)

Shageer/-

U			
---	--	--	--

