

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.2389 of 2020**

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Nand Kishore Das, Son of Sita Ram Das, Resident of Village-Masimpur  
Pirpanti, P.S. Pirpanti, District- Bhagalpur Bihar

... .. Petitioner

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 Regional Deputy Director of Education, Bhagalpur.
4. The District Education Officer, Bhagalpur.
5. The District Programme Officer(Establishment), Bhagalpur.
6. Principal, Primary School Prakhand Colony (Pirpanti), Bhagalpur.

... .. Respondents

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**Appearance :**

For the Petitioner : Mr.Praveen Kumar, Advocate  
For the Respondents : Mr.Prabhakar Jha, GP 27

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**  
**ORAL JUDGMENT**

**Date : 20-02-2020**

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

Petitioner was appointed as Assistant Teacher pursuant to advertisement no. 71/1996 on the recommendation of the Bihar Public Service Commission. Persons recommended along with the petitioner were allowed to join but in the case of the petitioner there was delay in issuing appointment letter. The petitioner filed CWJC No. 1309 of 2017, during pendency of the same, he was allowed to join. As a result of delay in accepting



the joining, the petitioner could not avail first opportunity to appear in the Primary Teachers Training Examination held in 2004. Subsequently, he appeared in the Training Examination 2007 and cleared in first attempt. The result thereof was published in 2008 and as such the petitioner was granted Matric Trained scale with effect from 24.06.2006. When the training examination was conducted subsequently the respondents decided to grant matric trained scale from the date of passing of the Training Examination and as result thereof, the petitioner's case was not considered for grant of promotion for lack of completion of *Kalawadhi*.

Learned counsel for the petitioner submitted that subsequently in 2009 the respondents have granted matric trained pay scale to the petitioner from the date of appearing in the training examination. He submits that on account of lapses and delay on the part of the respondents in not allowing the petitioner to join the post, the petitioner cannot be made to suffer.

In the peculiar facts of this case, the Court is of the considered view that the petitioner cannot be made to suffer. In a case in which counting of service of the petitioner as Matric Trained 'Kalawadhi' for further promotion is reckoned from the



date of grant of matric trained scale then in that situation respondents are under obligation to consider the case of the petitioner for grant of promotion counting his Kalawadhi from 2007. Since lapse is of the respondents, they are under legal and moral obligation to restore all the benefits applicable to the petitioner treating the year as 2007 and Kalawadhi as date for the purpose of grant of matric trained scale. In the aforesaid backdrop necessary decision afresh granting all consequential benefits must be decided by the respondents within a period of three months from the date of receipt/production of a copy of this judgment.

It goes without saying that the respondents are under obligation to grant promotion to the petitioner with all consequential benefits treating 2007 as reckoning point for Kalawadhi for grant of promotion.

With the aforesaid, the present writ petition stands allowed.

**(Anil Kumar Upadhyay, J)**

BT/-

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