

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7938 of 2020

1. Manoj Kumar, Sonof Arjun Prasad Singh, Resident of Naya Tola Naugachia, P.O.- Naugachia, P.s.- Naugachia, District- Bhagalpur, Pin Code- 853204.
2. Dhananjay Kumar Sharma, Son of Kasturi Prasad Sharma, Resident of village Parbatta, P.s.- Ismilepur, District- Bhagalpur.
3. Sarita Kumari, Wife of Rajeev Kumar Ranjan, Resident of village - Mil Tola, PS.- Naugachia, District- Bhagalpur.
4. Ajit Kumar Paswan, Son of Vivekanand Paswan, Resident of village Jhandapur, Ward No. 10, P.S.- Bihpur, District- Bhagalpur.
5. Rajeev Kumar Raman, Son of Naresh Das, Resident of village Sahu Parbatta, P.s.- Naugachia, District- Bhagalpur.
6. Rani Kumari, Wife of Ashik Kumar Nirala, Resident of village - Nagrah, P.S.- Naugachia, District- Bhagalpur.
7. Mukesh Kumar Rajak, Son of Banarsi, Resident of village Abhiya, Bazar, P.S.- gopalpur, District- Bhagalpur.
8. Rubi Kumari, Wife of Vivekanand Mandal, Resident of village Sadhua, P.S.- Rangra Chowk, District- Bhagalpur.
9. Lucy Kumari, Daughter of Giro Ray, Resident of village Tetri, P.s.- Naugachia, District- Bhagalpur.
10. Ranjana Kumari, Daughter of Arun Prasad Singh, Resident of village Pakra, P.S. Naugachia, District- Bhagalpur.
11. Punam Kumari, Daughter of Umesh Rajak, Resident of village Mahadhopur, P.S. Naugachia, District- Bhagalpur.
12. Kanchan Kumari, wife of Pradip Prasad Bhagat, Resident of village Dholbajja, P.S.- Kodwa (Dholbajja), District- Bhagalpur.
13. Md. Kaushar Ali, Son of Md. Idris Ali, Resident of Muslim Tola, Pakra, Ward No. 14, P.S.- Naugachia, District- Bhagalpur.
14. Mukesh Kumar, Son of Lakshman Das, Resident of village Kamalpur, P.S.- Sazour, District- Bhagalpur.
15. Renu Kumari, wife of Mukesh Sharma, Resident of village Pakra, P.S.- Naugachia, District- Bhagalpur.
16. Nilam Kumari, Wife of Rajeev Kumar, Resident of Bagri Tola Kadwa, P.S. - Dholbajja, District- Bhagalpur.
17. Swati Kumari, wife of Akhilesh Kumar, Resident of Dharhara, P.S.- Gopalpur, District- Bhagalpur.
18. Ashish Kumar, Son of Shukdeo Prasad Mandal, Resident of village Ashram Tola Kadwa, P.S.- Naugachia, district- Bhagalpur.
19. Anoj Sah, Son of Jaleshwar Sah, Resident of village Hario, P.s.- Bihpur, District- Bhagalpur.
20. Zarina Begum, wife of Md. Motibur Rahman, resident of Sakraili, P.S.- Sakraili, district- Katihar.



21. Raj Kumari, Wife of Nitesh Kumar Singh, Resident of Village - Pakra, P.s.- Naugachia, District- Bhagalpur.
22. Babita Kumari, wife of Milan Kumar, Resident of village - Pakra, P.S. Naugachia, District- Bhagalpur.
23. Sunita Kumari, wife of Balkeshwar Singh, Resident of village - Pakra, P.S. Naugachia, district- Bhagalpur.
24. Babita Kumari, wife of Sushil Kumar, Resident of village - Bobil, P.S.- Beldor, District- Khagaria.
25. Brajesh Kumar Singh, Son of Surendra Prasad Singh, Resident of village -Pakra, P.s. - Naugachia District- Bhagalpur.
26. Sushma Sinha, Wife of Umesh Prasad Singh, Resident of Moh. tola, P.s.- Naugachia, District- Bhagalpur.
27. Bulbul Kumari, Wife of Subodh Prasad Sharma, Resident of village - Sadhura, P.S.- gopalpur, District- Bhagalpur.
28. Sunita Kumari, Wife of Manjesh Kumar Rajak, Resident of Singhkund, P.s.- Kharik, District- Bhagalpur.
29. Anita Kumari, wife of Sanjay Kumar Mandal, Resident of village - Raghapur, P.S. Parbatta, District- Bhagalpur.
30. Munilal Singh, Son of Mahanand Prasad, Resident of village - Raza Babu Mandir Navin Nagar, Punama Pratap Nagar, P.S.- Dholgajja, District- Bhagalpur.
31. Gulshan Ara, Wife of Md. Shahid Akhtar, Resident of village - Dhruvganj P.s.- Kharik, District- Bhagalpur.
32. Luxmi Kumari, wife of Rajeev Kumar Paswan, Resident of village - Jhandapur, P.S.- Bihpur, District- Bhagalpur.
33. Pooja Kumari, Wife of Bhibhakar Bharti, Resident of village - Naugachia, Ward No. 17, P.S.- Naugachia, District- Bhagalpur.
34. Bibi Sanower Khatun, Wife of Md. Shahid Karim, Resident of village - Ujani, P.S. Naugachia, District- Bhagalpur.
35. Yogesh Kumar Yogi, Son of Late Nageshwar Harizan, Resident of village - Bhawanipur Naya Tola, P.S.- Rangra Chowk, District- Bhagalpur.
36. Ruhi Khatoon, Daughter of Md. Kalimuddin, Resident of village - Kilaghat Sarai, P.S. - Tatarpur, District- Bhagalpur.
37. Rabindra Kumar Roy, Son of Sukdeo Roy, Resident of village Pakra, P.s.- Naugachia, District- Bhagalpur.
38. Alpana Kumari, Wife of Dipak Roy, Resident of village - Pakra, P.S.- Naugachia, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Additional Chief Secretary, Education Department, govt.of Bihar, patna.
2. The Director Primary Education, Government of Bihar, Patna.
3. The Regional Deputy Director of Education, Bhagalpur, At and P.O.-



Bhagalpur.

4. The District Education Officer, Bhagalpur, At and PO- Bhagalpur.
5. The District Programme Officer (Establishment) Bhagalpur, At and PO - Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Singh
For the Respondent/s : Mrs.Binita Singh (S.C. 28)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 01-02-2021

The petitioners, 38 in number, have claimed that they were appointed as Panchayat Teachers in the District of Bhagalpur in different schools under different Panchayats. The Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006 (hereinafter referred to as the 'Rules') governed their appointments and service conditions. Rule 4 of the said Rules required that the competent authority shall make arrangements for training for a period of two years for such teachers who were untrained at the time of their engagement. The petitioners were sent for training, however, after considerable delay. They participated in the training and passed the required examination. Though they were appointed on different dates ranging from 14.08.2010 to 10.05.2012, as is evident from the statement made in paragraph 5 of the writ application, they have been granted benefit of trained scale from the date of publication



of result. It is the petitioners' case that they are entitled to trained scale from the date of completion of their training and much belated publication of result should not be the basis for determination of date with effect from which they should be held to be entitled to trained scale. The petitioners have relied upon a decision of this Court dated 09.08.2019 passed in C.W.J.C. No. 16165 of 2019 (***Kishor Kumar and Others v. The State of Bihar and Others***) wherein the Court has held as under:-

“If there is no dispute that the petitioners were sent for training in academic sessions 2013-15 and the course was completed in May, 2017, there is no reason to deny the benefit of trained scale to these petitioners with effect from May, 2017 when the course was completed as the petitioners have completed their training but for the reason best known to the respondents the examination was not held in time and the result was published belatedly along with the junior batch.

Considering the aforesaid, the writ petition is disposed of with a direction to the Director, Primary Education to consider the case of the petitioners and grant the benefit from the date of completion of training to the petitioners as the lapses on the part of the respondents cannot be a ground to deny the benefit of trained pay scale. It is now well settled that one cannot take advantage of his own wrong in defeating the genuine claim. Chief Justice Chhagla of Bombay High Court in the case of All India Groundnut Syndicate Ltd. Vs. Commissioner of Income Tax, Bombay City: AIR 1954 Bom. 232 has



occasion to settle the principle on the similar line there is judgment of the Apex Court in the case of State of Maharashtra Vs. Jagannath Achyut Karandikar: AIR 1989 SC 1133. The respondents have to take decision granting benefit of trained scale to the petitioners with effect from the date of completion of their training i.e. May, 2017. Necessary decision in this regard with all consequential monetary benefits must be taken by the Director, Secondary Education within a period of sixty days from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.”

2. Placing reliance on the aforesaid decision of this Court, the petitioners have sought for quashing of letter issued vide Memo No. 52 dated 06.01.2020 by the District Programme Officer (Establishment) Bhagalpur (Respondent no. 5) to the extent the same relates to these petitioners whereby a decision has been taken to grant grade pay to the teachers (Panchayat Teacher/Prakhand Teacher) who were trained teachers of D. L. Ed. (O.D.L.) Session 2013-15 (B) from the date of declaration of the result i.e. 31.03.2019. It is the petitioners' case that they are entitled for the grade pay with effect from May, 2017. They are accordingly seeking a direction to the respondent nos. 2 and 5 to grant them benefit of grade pay with effect from successful completion of the training i.e. May, 2017. They are claiming their



benefits strictly in terms of the judgment and order of this Court dated 09.08.2019 in case of ***Kishor Kumar and Others*** (supra).

3. A counter affidavit has been filed on behalf of the State of Bihar. No averment made in the writ application has been denied in the counter affidavit. It is thus an undisputed fact that the petitioners were sent for training in the Session 2013-15 (B) for the course of Diploma in Elementary Education in accordance with the statutory requirement under Rule 4 of the Rules. Specific assertion that the petitioners completed their training in May, 2017 too has remained uncontroverted in the counter affidavit. It has, however, been stated in the counter affidavit that a decision has already been taken in the light of this Court's order dated 09.08.2019 passed in C.W.J.C. No. 16165 of 2019 (***Kishor Kumar and Others***) (supra) to grant trained scale 'notionally' to such untrained teachers who, though, had completed training in May, 2017 but their result was published in March, 2019. It has however been mentioned that monetary benefits have been allowed to such teachers from the date of publication of result. The order issued vide Memo No. 547 dated 22.06.2020 issued by the Director Primary Education, Government of Bihar has been brought on record by way of an Annexure to the counter affidavit which has been purportedly passed in compliance of this Court's



order dated 09.08.2019 passed in case of ***Kishor Kumar and Others*** (supra). Referring to the said order dated 22.06.2020, it is the case of the State of Bihar that the grievance of the petitioner stands redressed.

4. The said order dated 22.06.2020 is sought to be challenged in the present proceeding by seeking amendment in the writ application through I.A. No. 01 of 2020. It is the petitioners' case that they are entitled to the monetary benefits from the date of completion of training in the light of this Court's Judgment and order in case of ***Kishor Kumar and Others*** (supra).

5. Learned counsel appearing on behalf of the petitioners has submitted that decision to grant notional grade pay from the date of completion of training and refusal to grant actual monetary benefits from the said date is wholly arbitrary illegal, unreasonable. As a matter of fact, it amounts to overreaching a judicial order of this Court in case of ***Kishor Kumar and Others*** (supra) in the pretext of its compliance, he has urged.

6. Considering the facts and circumstances, as noted above, I.A. No. 01 of 2020 is allowed.

7. The petitioners are thus permitted to challenge the order dated 22.06.2020 passed by the Director Primary Education, Government of Bihar, Patna. The averments made in the said



application seeking amendment shall be treated to be part of the main application. It is noteworthy that the State respondents have dealt with the averments made in the Interlocutory Application also, in their counter affidavit.

8. Mrs. Binita Singh, learned counsel appearing on behalf of the State of Bihar on the other hand has argued that the State Government is competent to grant notional grade pay or promotion from a particular date and pay actual monetary benefits from a subsequent date. She has submitted that the petitioners have been made entitled to all benefits consequential to grant notional grade pay with effect from the date of completion of training except actual financial benefits, which too have been allowed from the date of publication of result.

9. From the facts noted above, it is evident that in similar circumstance some Panchayat teachers had approached this Court with a claim that they are entitled for grade pay with effect from completion of their training and not with effect from the date of publication of result of the training, as they were not responsible for the delay in publication of result. This Court in case of ***Kishor Kumar and Others*** (supra) had directed the Director Primary Education, Government of Bihar, Patna to consider the case of the petitioner and “.....grant the benefits



from the date of completion of training to the petitioners as lapses on the part of the respondents cannot be a ground to deny the benefit of trained pay scale.....”. In implementation of the said order the respondents could not have deviated to deny actual benefits of grant of grade pay from the date of completion of their training, as the direction is specific in nature to the effect that lapses on the part of the respondents could not be a ground to deny the benefits of trained pay scale. Granting notional scale only with effect from the date of completion of training, in my opinion amounts to defying this Court’s direction as actual payment of trained pay scale is a benefit of grant of trained pay scale, which cannot be denied in the light of this Court’s order in case of ***Kishor Kumar and Others*** (supra).

10. This writ application is accordingly allowed.

11. The impugned orders dated 06.01.2020 issued by the District Programme Officer (Establishment) Bhagalpur and the order dated 22.06.2020 passed by the Director Primary Education, Government of Bihar, Patna are hereby quashed.

12. The respondents are directed to ensure that the petitioners are paid pay scale/grade pay which they are entitled to from the date of completion of training i.e. May, 2017. The arrears of salary shall be calculated accordingly and paid to them within a



period of three months from the date of receipt/production of a copy of this order.

13. The Court was contemplating imposition of cost noticing palpably arbitrary action of the State respondents which generated unnecessary litigation. Instead of imposing cost it has been considered apt to issue a note of caution for the Respondents to be fair and reasonable in future in such matters, particularly when the matters relate to implementation of Court’s orders. It is, however, directed in the facts and circumstances that let the respondents ensure that their actions may not generate unnecessary further litigation and this Court’s orders are uniformly applied in respect of similarly situated employees, as is expected of a model employer.

(Chakradhari Sharan Singh, J)

AKASH/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04.02.2021
Transmission Date	N/A

