

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7216 of 2020

1. Vivek Kumar son of Rajendra Kumar resident of Anwari Ward No. 15, GT Road, Post Mohania, District Kaimur (Bhabhua).
2. Sipahi Sharma son of Ram Chandra Sharma resident of Ward No. 7, Village Nakhtaul, Post Durgawati, District Kaimur (Bhabhua).
3. Samina Khan wife of Late S. Maslehuddin resident of Village Mustafapur, Post Jigna, P.S. Dinara, District Rohtas.
4. Vijay Bahadur Singh son of Suraj Singh resident of Village Bhaluhi, Post Harnathpur, District Kaimur (Bhabhua).
5. Poonam Kumari wife of Abhay Kumar resident of Village and Post Dhawpokhar, P.S. Dhawpokhar, District Kaimur (Bhabhua).
6. Kanchan Gupta wife of Rameshwar Kumar Bhagat resident of Village Dewari, Post Koluhan, P.S. Adhaura, District Kaimur (Bhabhua).
7. Md. Sibli son of Md. Kashi Miya resident of Village and P.S. Sikari, Post Kolhua, District Kaimur.
8. Poonam Kumari wife of Saroj Chaurasia resident of Ward No. 11, Near Agrawal Petrol Pump, P.O. and P.S. Bhabhua, District Kaimur (Bhabhua).
9. Seeta Kumari wife of Sri. Santosh Kumar resident of Shanti Nagar, Opposite Bhabhua Police Station, Village Sivo, P.S. Bhabhua, District Kaimur (Bhabhua).
10. Raj Kumari wife of Madhurendu Kumar Bhushan resident of Ward No. 11, Chakbandi Road, P.O. and P.S. Bhabhua, District Kaimur (Bhabhua).
11. Md. Azhar son of Rustom resident of Ward No. 6, P.O. and P.S. Kochas, District Rohtas.
12. Sanjay Kumar son of Late Lakshman Sah resident of Village Daidhan, P.O. and P.S. Kochas, District Rohtas.
13. Arun Kumar Pandey son of Gopal Pandey resident of Ward No. 18, Behind Agrawal Petrol Pump, P.O. and P.S. Bhabhua, District Kaimur (Bhabhua).
14. Vivekanand Singh son of Barhoo Singh resident of Village Dulahi, Post Karji, P.S. Bhabhua, District Kaimur (Bhabhua).
15. Mahendra Kumar son of Banarsi Prasad Bind resident of Ward No. 25, Post Bhabhua, District Kaimur (Bhabhua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat Building, Patna.
2. The Additional Secretary cum Director (Secondary Education), Department of Education, Government of Bihar, Patna.
3. The District Program Officer (Establishment), Kaimur at Bhabhua.
4. The District Education Officer, Kaimur at Bhabhua.



... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 7217 of 2020

1. Rajeshwar Singh Son of Radha Singh, Resident of Village Akhodi, Post Nauhatta, District Kaimur (Bhabhua).
2. Bhim Singh, Son of Late Guput Singh, Resident of Village Belaon, Post Kharenda, District Kaimur (Bhabhua).
3. Abhay Kumar Gupta, Son of Haricharan Sah, Resident of Village Barkagawan, Post Mohan Darwan, P.S. Belaon, District Kaimur (Bhabhua).
4. Haphij Vakil Ahamad, Son of Shukurullah Ansari, Resident of Village Sadekawai, Post Odar, District Kaimur (Bhabhua).
5. Manju Devi, Wife of Anil Kumar, Resident of Village Sakrauli, Post Barhupar, P.S. Mohani, District Kaimur (Bhabhua).
6. Santosh Kumar, Son of Gyani Ram, Resident of Village and Post Bare, District Kaimur (Bhabhua).
7. Ram Sewak Singh, Son of Mishri Singh, Resident of Village and Post Saitha, P.S. Sonhan, District Kaimur (Bhabhua).
8. Padmawati Kumari, Wife of Vijay Shankar Mishra, Resident of Village-Dullhanpur, Post Kaser, District Kaimur (Bhabhua).
9. Munna Prasad, Son of Sri Murli Prasad, Resident of Ward No. 14, Ambedkar Nagar, Post Bhabhua, District Kaimur (Bhabhua).
10. Kumari Deepika Gupta, Wife of Ravi Ranjan Kumar Gaurav, Resident of Village and Post-Barkagaon, District Kaimur (Bhabhua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat Building, Patna.
2. The Additional Secretary cum Director (Secondary Education), Department of Education, Government of Bihar, Patna.
3. The District Program Officer (Establishment), Kaimur at Bhabhua.
4. The District Education Officer, Kaimur at Bhabhua.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 7218 of 2020

1. Sunil Kumar Rai son of Shyam Narayan Rai resident of Village and Post Bhabhua, District Bhabhua.
2. Suman Kumari wife of Sanjay Sharma resident of Village Jamuanw, Post Kurasan, P.S. Bhabhua, District Kaimur (Bhabhua).
3. Kavita Kumari wife of Mantu Upadhyay resident of Village Kohari, Post



Darauli, District Kaimur (Bhabhua).

4. Ambari Khatoon wife of Nasiruddin Ansari resident of Village and Post Ramgarh, District Kaimur (Bhabhua).
5. Manoj Kumar son of Harivansh Singh resident of 1350A, Ali Nagar, Near D Baba, P.O. and P.S. Chandauli, District Mugalsarai.
6. Veena Kumari wife of Sachidanand Ram resident of Village and Post Ramdihara, P.S. Amjhor, Block Tilouthu, District Rohtas.
7. Manju Devi wife of Sri. Ashok Kumar resident of Village and Post Sikari, District Kaimur (Bhabhua).
8. Shail Kumari wife of Vijay Kumar resident of Village and Post Akhlaapur, P.S. Sikathi, District Kaimur (Bhabhua).
9. Md. Firoz Alam son of Md. Jainuddin resident of Chhavani Mohalla, Ward No. 08, P.O. and P.S. Bhabhua, District Kaimur.
10. Radha Krishna Dubey son of Jagarnath Dubey resident of Ward No. 07, Shanti Nagar, P.O. and P.S. Bhabhua, District Kaimur.
11. Kumar Arvind son of Thakur Dayal Gupta resident of Village and Post Badka Gaon, P.S. Tarari, District Bhojpur.
12. Sanjay Kumar son of Bangali Ram resident of Village and Post Panapur, P.S. Mohania, District Kaimur (Bhabhua).
13. Amrawati Devi wife of Brajesh Kumar resident of Village Sakthi, Post Akhlaapur, P.S. Bhabhua, District Kaimur (Bhabhua).
14. Sajda Begum wife of Shamim Ahmad resident of Ward No. 10, Chhavani Mohalla, P.O. and P.S. Bhabhua, District Kaimur (Bhabhua).
15. Archana Kumari wife of Rajesh Raushan resident of Village and Post Khanethi, District Kaimur (Bhabhua).
16. Nishad Sheela Kumari daughter of Lalmuni resident of Village Mithapur, Post Darwali, P.S. Bhabhua, District Kaimur (Bhabhua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat Building Patna.
2. The Additional Secretary cum Director (Secondary Education), Department of Education, Government of Bihar, Patna.
3. The District Program Officer (Establishment), Kaimur at Bhabhua.
4. The District Education Officer, Kaimur at Bhabhua.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 7265 of 2020

1. Shehruna Nesha Wife of Tasauwar Shah, Resident of Village and Post-Pateri, P.S. Jamalpur, District Kaimur (Bhabhua).



2. Saadat Hussain Ansari, Son of Mubarak Hussain Ansari, Resident of Village and Post-Bhabhua, District Kaimur (Bhabhua).
3. Ashok Kumar, Son of Nivash Ram, Resident of Village-Khudura, Post-Noan, District Kaimur (Bhabhua).
4. Md. Akhlaqurrahman, Son of Md. Shamimuddin, Resident of Village-Pajrao, P.S.-Nuoan, District Kaimur (Bhabhua).
5. Harivansh Ram, Son of Daroga Ram, Resident of Village-Godarsa, Post-Nuoan, District Kaimur (Bhabhua).
6. Shariful Haque Ansari, Son of Siddiki Ansari, Resident of Village and Post-Gara, P.S.-Kochas, District-Rohtas.
7. Indradev Pal, Wife of Kapil Dev Pal, Resident of Village-Tiyara, Post-Akhini, Ward No. 7, District Kaimur (Bhabhua).
8. Purnima Kumari, Daughter of Rama Shankar Verma, Resident of Tiwary Tola, Ward No. 19, Post-Bhabhua, District Kaimur (Bhabhua).
9. Sukwanti Kewat, Wife of Rakesh Kumar, resident of Village-Nauwa, Post Amaon, P.S. Chand, District-Kaimur (Bhabhua).
10. Ranjay Kumar Rai, Son of Ram Prasad Rai, Village Post-Rampur, District-Buxar.
11. Vijanta Kumari, Wife of Lal Babu Ranjan, Resident of Village and Post-Bhabhua, Ward No. 6, District Kaimur (Bhabhua).
12. Reena Kumari, Wife of Prabhat Kumar Ranjan, Resident of Village and Post-Ararua, P.S. Kargahar, District Rohtas.
13. Nilam Devi, Wife of Ravi Kumar, Resident of Village-Niranjanpur, Post Parwatpur, P.S. Chainpur, District Kaimur (Bhabhua).
14. Md. Irfan Ansari, Son of Abdul Mannan Ansari, Resident of Village and Post Sato Awanti, P.S. Ewati, District Kaimur (Bhabhua).
15. Shyam Sundar Prasad, Son of Bagedu Bind, Resident of Village and Post-Nawagaon, District Kaimur (Bhabhua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat Building, Patna.
2. The Additional Secretary cum Director (Secondary Education), Department of Education, Government of Bihar, Patna.
3. The District Program Officer (Establishment), Kaimur at Bhabhua.
4. The District Education Officer, Kaimur at Bhabhua.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 7395 of 2020

1. Sujata Kumari Wife of Vijay Kumar Suman, resident of Ward No. 10, Chakbandi Road, District Kaimur (Bhabhua).



2. Kalawati Kumari, Wife of Deepak Kumar, resident of Village-Belawon, Post Kharenda, P.S. Belawon, District Kaimur (Bhabhua).
3. Sunita Kumari, Wife of Rajendra Prasad, Resident of Village-Baburahan, P.S. Chainpur, Post Amaon, District Kaimur (Bhabhua).
4. Jamil Ahmad Ansari, Son of Amriuddin Ansari, resident of Ward No. 3, Post Chainpur, District Kaimur (Bhabhua).
5. Rajiv Kumar Singh, Son of Deopujan Singh, resident of Village Loknathpur, Post Dhanej, P.S. Kargahar, Bisodehri, District Rohtas.
6. Dilip Kumar, Son of Tulsi Prasad, resident of Ward No. 11, Chakbandi Road, Bhabhua, District Kaimur at Bhabhua.
7. Hridaya Prasad, Son of Jeetan Ram, resident of Village Narotapur, Post Dumraith, District Kaimur (Bhabhua).
8. Ajay Kumar Singh, Son of Bajrangee Singh, resident of Village Sihiria, Post Chand, P.S. Hatta, District Kaimur (Bhabhua).
9. Md. Zahid, Son of Noore Nazar Ansari, resident of Village and Post-Khaira, District Kaimur (Bhabhua).
10. Mustaque Ahmad Ansari, Son of Zainul Abeuddin Ansari, resident of Village Chainpur, District Kaimur (Bhabhua).
11. Kumari Sarita, Wife of Awadhesh Kumar Singh, resident of Village and Post-Chainpur, District Kaimur (Bhabhua).
12. Kumari Binda, Wife of Bharat Singh, resident of Village and Post-Thakura, District Kaimur (Bhabhua).
13. Mamta Sah, Wife of Sanjay Kumar, resident of Village and Post-Goin, P.S.-Chand, District Kaimur (Bhabhua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Government of Bihar, Old Secretariat Building, Patna.
2. The Additional Secretary cum Director (Secondary Education), Department of Education, Government of Bihar, Patna.
3. The District Program Officer (Establishment), Kaimur at Bhabhua.
4. The District Education Officer, Kaimur at Bhabhua.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 7216 of 2020)

For the Petitioner/s : Mr.Jai Vardhan Narayan

For the Respondent/s : Mr.Lalit Kishore (Ag)

(In Civil Writ Jurisdiction Case No. 7217 of 2020)

For the Petitioner/s : Mr.Jai Vardhan Narayan

For the Respondent/s : Mr.Lalit Kishore (Ag)

(In Civil Writ Jurisdiction Case No. 7218 of 2020)

For the Petitioner/s : Mr.Jai Vardhan Narayan

For the Respondent/s : Mr.Lalit Kishore (Ag)

(In Civil Writ Jurisdiction Case No. 7265 of 2020)



For the Petitioner/s : Mr.Jai Vardhan Narayan
For the Respondent/s : Mr.Lalit Kishore (Ag)
(In Civil Writ Jurisdiction Case No. 7395 of 2020)
For the Petitioner/s : Mr.Jai Vardhan Narayan
For the Respondent/s : Mr.Lalit Kishore (Ag)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 04-02-2021 This batch of writ applications involve common question of fact and law and with the consent of the parties, all the writ applications are disposed of by this common order.

2. The petitioners have filed the present writ applications, aggrieved by the action of the respondents, altering pay fixation adverse to the petitioners without opportunity of hearing.

3. In C.W.J.C. No. 7217 of 2020 a counter affidavit has been filed on behalf of respondent no.3. The DPO in his counter affidavit has taken the stand. The stand of the respondents extract from the statement at paragraphs 9 to 18 is quoted below:-

“9. That the State Government issued resolution No.1530 dated 11.8.2015 by which the teachers have been give pay scale instead of fixed salary.

10. That in order to make the things crystal clear and intelligible certain relevant facts are essential to be brought to the notice of the Hon’ble Court for proper appreciation and adjudication of the matter in its correct perspective.



i. In continuation of Government resolution No. 1530 dated 11.8.2015 the Education Department, Government of Bihar issued a resolution No. 1632 dated 21.6.2017 by which the pay scale-grade pay of Primary, Secondary and Higher Secondary teachers were revised.

ii. Besides, other details mentioned therein it was decided to grant revised scale to the teachers and librarians, recruited under Panchayat Raj Institutions and Urban bodies on the basis of pay matrix as is evident from clause 3 (ii) of the said resolution.

11. That in order to meet certain queries of the Regional Offices in order to implement Departmental resolution No. 1632 dated 21.6.2017 an workshop was organized in Departmental Conference Hall on 13.07.2019.

12. That after due deliberation and consultation with Finance Department, office order, contained in Memo No. 1900 dated 04.10.2019 were issued, where in clause 3 (iv), it was specifically clarified that earlier there was provision to sanction pay grade to untrained recruited teachers on the completion of two years service or after completing in service training whichever is later. It was clarified therein that such untrained teachers who were getting basic scale of pay of which Index of level -1 on the date of sanction of grade pay, they would be entitled for admissible basic pay of resemble index of level 2, 3



and 4 (As has been pay in the pay matrix) which would not be more than Index -3 of level 2, 3 and 4.

The photo stat copy of the order dated 04.10.2019 contained in memo no. 1900 is being annexed herewith and is marked as **Annexure-C**.

13. That it is relevant to mention here that the salary of untrained teachers were less than trained teachers since inception of the said recruitment rules. The Department has made provision for in-service training of such untrained teachers. The fixation of salary of such teachers were restricted to Index 3 in order to maintain the difference between the salary of trained teachers and those untrained teachers, who got in-service training and recruited in same transaction of recruitment.

14. That in certain districts the pay scale was fixed beyond Index 3, i.e. at Index 4, 5 and 6 as has been done in the case of the present petitioners and in order to rectify such error, the Director, Secondary Education has invited attention and issued necessary direction to all the District Education Officers vide his letter No. 754 dated 20.04.2020. It was also directed that if the error is not rectified by 15.05.2020 he shall also be held liable.

The photo stat copy of the letter no. 754 dated 20.04.2020 is being annexed herewith and is marked as **Annexure-D**.



15. That the District Programme Officer (establishment) , Kaimur (Bhabhua) vide his letter no.700 dated 21.04.2020 directed all the Block Education Officers to implement the letter no. 754 dated 20.07.2020 issued by the Director , Secondary Education to rectify the error, if any.

16. That it is humbly stated that there is no legal infirmity in the letter no. 754 dated 20.04.2020 or the follow up order dated 21.04.2020 issued by the District Programme Officer (establishment) by which he has simply directed the Block Education Officers to implement clause -3 (iv) of letter no. 1900 dated 04.10.2019 strictly (Annexure -B to the counter affidavit).

17. That it is further submitted that the issue of granting benefit of trained scale came for consideration before this Hon'ble Court in C.W.J.C. No.16165 of 2019 and other cases in which by order dated 09.08.2019 Hon'ble Court was pleased to direct The Director, Secondary Education to take necessary decision for granting petitioner w.e.f. date of completion of their training i.e. May 2017. Necessary decision in this regard with all consequential monetary benefits must be taken by Director, Secondary Education within 60 days from the receipt / production of the order.

18. That thereafter by memo no. 547 dated 22.06.2020 the Director, Primary Education passed an order in pursuance of order dated 09.08.2019 passed in C.W.J.C. No. 16165 of 2019



by which decision was taken that those untrained teachers who were admitted in session 2013-15 and had completed their training in May 2017 and have passed their examination in March 2019 shall be given trained pay scale from the date of completion of training notionally and shall be provided monetary benefits from the date of production of result.

The photo stat copy of the memo no. 547 dated 22.06.2020 is being annexed herewith and is marked as **Annexure-E**.

4. From the averment made in the counter affidavit, the Court finds that the respondents have taken decision adverse to the interest of the petitioners on the direction issued by the Director, Primary Education contained in Memo No. 547 dated 22.6.2020. The counter affidavit does not indicate that any notice was issued to the petitioners before taking decision after direction of Director, Primary Education contained in Memo No. 547 dated 22.6.2020.

5. It is well settled that no order visiting civil and criminal consequences can be passed without opportunity of hearing.

6. From the materials available on record, the Court is of the considered view that the action of the respondents, reducing the pay scale of the petitioners in purported compliance of the direction issued by Director, Primary



Education contained in Memo No. 547 dated 22.6.2020 is unsustainable as the respondents before taking decision was not given notice to the petitioners and without notice and opportunity of hearing, the respondents have decided to reduce the pay scale of the petitioners.

7. In view of non compliance of the principles of natural justice, all the writ applications are allowed. The impugned order contained letter No. 700 dated 21.4.2020 cannot sustain. It is accordingly quashed. The quashing of the order does not preclude the respondents from taking fresh decision in accordance with law after notice and opportunity of hearing to the petitioner(s).

(Anil Kumar Upadhyay, J)

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