

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12123 of 2019

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1. Ram Ekbal Ram S/o Late Dwarika Ram, Resident of Village Shrisia, Manikpur Narotam, Sirsia Buzurg PO and PS Kanti, District Muzaffarpur, presently posted and Middle School, Kaparpura, Dist.Muzaffarpur
 2. Shanti Kumar S/o Prabhu Paswan, Resident of Village Susta, PO and PS Susta, Dist.-Muzaffarpur, presently posted at Upgraded Middle School, Ratnauli, Kudhni, Dist.-Muzaffarpur
 3. Baiju Kumar Rajak S/o Prabhu Paswan Resident of Village Pakki Sarai, Ward No.42 Jail Road, Dist.-Muzaffarpur, presently posted at Middle School, Dardha Muraul, Dist.-Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar through the 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 Regional Dy. Director of Education, Tirhut Division, Muzaffarpur
5. The District Education Officer, Muzaffarpur, Dist.-Muzaffarpur
6. The District Programme Officer (Establishment), Muzaffarpur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Singh, Advocate
For the Respondent/s : Mr. Mukund Mohan Jha, A.C. to G.P. 27

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 25-02-2021

I.A. No. 1 of 2021

Having heard learned counsel for the parties and in view of the counsel of respondents, not having any objection to the prayer made in the said application, the interlocutory application is allowed and it is ordered that the date 31.12.2017 mentioned in paragraph No. 1 (i) of the writ application shall be read as 29.6.2017.

I.A. No. 1 of 2021 stands allowed.



C.W.J.C. No. 12123 of 2019

Heard learned counsel for the petitioners and learned counsel for the respondents.

The petitioners have filed the instant application for directing the respondent authorities to grant promotion to the petitioners on the post of Headmaster w.e.f. 29.6.2017 in view of the letter issued by the Special Secretary, Education Department, Government of Bihar, contained in memo no. 484 dated 31.3.2018 with all consequential monetary benefits as has been given to other similarly situated teachers.

The case of the petitioners, in brief, is that they were appointed as assistant teacher on recommendation of the Bihar Public Service Commission and joined their service on different dates. During the service period, they acquired the qualification of teacher training and also got their post graduation degree. By order dated 29.6.2016 (Annexure – 2), the petitioners were promoted in the trained graduate pay scale.

The contention of the petitioners, in brief, is that in terms of the relevant Rules of the year 2011, as contained in Annexure - 1, the petitioners having been promoted in the trained graduate pay scale vide order dated 29.6.2016 (Annexure – 2), they became entitled for promotion as



Headmaster w.e.f. 29.6.2017. It is submitted that all the petitioners have post graduate qualifications. Their documents were verified by the authorities and a gradation list, as contained in Annexure - 5, was notified wherein the names of the three petitioners figures at Sl. 36, 65 and 68. However, the petitioners are not being promoted as Headmasters by the respondent authorities.

In context to the order contained in memo dated 11.4.2019 (Annexure – A to the counter affidavit of Respondent no. 6), it is submitted by learned counsel of petitioners that, firstly, all the petitioners coming under the category of Scheduled Caste, the same would not be applicable in their case.

It is further submitted that under similar circumstances, teachers who have obtained trained graduate pay scale, approached this Court in C.W.J.C. no. 8860 of 2019 for their promotion to the post of Headmaster. The said writ application was disposed of, directing the Principal Secretary, Department of Education, Government of Bihar, to take a decision on the representation of the petitioners within a period of eight weeks. It is submitted that subsequent thereto, as the directions contained in the order were not complied with, a contempt application being M.J.C. no. 3181 of 2019 was filed



and, thereafter, the authorities passed orders granting promotion to the petitioners therein vide order contained in memo no. 563 dated 24.6.2020 (Annexure – 10). It is further submitted that the letter of the Government dated 11.4.2019 does not come in way of granting promotion which would be evident from perusal of the order contained in memo no. 582 dated 27.6.2019 (Annexure – 11), whereby by the said notification the General Administrative Department has granted promotion to a number of persons on the post of Headmaster.

The writ application is opposed by learned A.C. to G.P. 27 appearing for the State, who submits that on account of promotion in the State Government service having been stopped and also on account of postponement of the meeting of the Departmental Promotion Committee, steps have not been taken and as soon as the same is withdrawn, steps would be taken for consideration of the promotion of the petitioners on the post of Headmasters.

Having heard the learned counsel for the parties and from perusal of the materials on record, it transpires that there is no dispute with respect to the fact that all the three petitioners *vide* order contained in memo no. 2887 dated 29.6.2016 (Annexure 2) were given the trained graduate pay



scale w.e.f. 29.6.2016. The petitioners on completion of one year became entitled for promotion to the post of Headmaster w.e.f. 29.6.2017 for which a gradation list of those having post graduate qualification and eligible for promotion as Headmaster was prepared under the signature of the District Programme Officer. All the three petitioners figured in the said list at Sl. Nos. 36, 65 and 68.

Further the specific averment / contention of the writ petitioners that a number of persons by order contained in memo no. 563 dated 24.6.2020 and memo no. 582 dated 27.6.2019, which orders have been brought on record as Annexures – 10 and 11, have been granted promotion to the post of Headmaster and the case of the petitioners are similar to their case have gone unanswered by the respondents. As such, in the opinion of this Court, the petitioners have made out a case for grant of relief and are entitled for promotion as Headmaster in middle school with effect from their respective due dates.

The writ application is allowed.

The writ application is allowed and the District Education Officer, Muzaffarpur (Respondent no. 5) / concerned respondent is directed to pass appropriate orders promoting the petitioners on the post of Headmaster in Middle School from



their respective due dates and to pay the consequential monetary
benefits within the period of four months from the date of
receipt / production of a copy of this order.

(Partha Sarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.03.2021
Transmission Date	NA

