

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16423 of 2021

1. Hari Shankar Kumar Son of Late RAm Ashish Roy Resident of Rajapur, Mainpura, P.O. - G.P.O. P.S. patliputra, District- patna, Pin Code - 80001.
2. Awadhesh Prasad Yadav Son of Late Parmeshwar Prasad Yadav Resident of Village - Saleya, P.O. Barhat, P.S. - Barhat, District- Jamui.
3. Manoj Kumar II Son of Late Jogendra Prasad Resident of House No. 19, Adarsh Colony, Kidwaipuri, P.S. Kotwali, District- Patna.
4. Ravi Dayal Son of Ram Babu Resident of Panch Mandir, Alkapuri Road, P.O. - Anishabad, P.S. Gardanibagh, District- Patna.
5. Sanjay Kumar Sinha I Son of Late Pashupati Nath Prasad Resident A/ 138, Housing Colony, Kankarbagh, P.S. - Kankarbagh, District- Patna, Pin Code - 800020.
6. Vijay Kumar Sinha Son of Late Pashupati Nath Resident of Ny - 7D, Behind Jhunjhun Mahal, P.S. - Gardanibagh, District- Patna.
7. Subodh Kumar Son of Arjun Mandal Resident of B/20, Indirapuri Colony, Ashiana Road, P.O. - B.V. College, P.S. - Shastrinagar, District- Patna-800014.
8. Manoj Kumar Jha Son of Late Supendra Jha Resident of New Mithila Colony, Nasriganj, P.S. - Danapur, District- Patna.
9. Ram Prakash Mahto Son of Nathuni Mahto Resident of Village - Nawada Khalsapar, Walmi, Phulwari, P.S. - Phulwari Sharif, District- Patna.
10. Sanjay Kumar - I Son of Late Ram Krishna Ghosh Resident of Village and P.O. and P.S. - Bhikhanpur, District- Bhagalpur.
11. Suresh Prasad Rajak Son of Saryug Prasad Resident of Village - Dhadhuan, P.O. and P.S. - Desri, District- Vaishali.
12. Sunil Manohar Son of Late Ram Narayan Yadav Resident of Village and P.O. - Amari, P.S. - Khaira, District- Jamui.
13. Sanjay Kumar - IV Son of Makeswar Prasad Resident of Bazar Samiti, Saketpuri, P.S. - Bazar Samiti, District- Patna - 800016.
14. Mahesh Prasad Srivastava Son of Late jai Narayan Prasad Srivastava Resident of Village - Dhanushi, P.O. -Ghatara, P.S. Kartaha, District- Vaishali.
15. Ram Parvesh Ray Son of Late Yogendra Ray Resident of Village Magardahi, Ward No. - 29, P.S. and District- Samastipur.
16. Mithilesh Kumar Singh Son of Chandradeo Singh Resident of A- 154, Housing Colony, Lohianagar, P.S. - Kankarbagh, District- Patna, Pincode-800020.
17. Brahmdeo Thakur Son of Ganpati Thakur Resident of Village and P.O. -Sijoliya, P.S. - Phulparas, District- Madhubani.
18. Chandra Shekhar Singh Son of Ram Vilash Singh Resident of Village - Bhajwana, P.O. - Nachap, P.S. - Manjhi, District- Chapra.
19. Vijay Kumar Son of Late Rishideo Roy Resident of Pahalega (Sahabpur



Diyara), P.O. and P.S. - Sonepur, District- Saran.

20. Rakesh Dwivedi Son of Sridahar Dwivedi Resident of B/18, Housing Colony, Kankarbagh, P.S. - Kankarbagh, District- Patna, Pin code - 800020.
21. Sanjay Kumar Sinha - II Son of Rajeshwar Prasad Singh Resident of Chak Mushallahpur, Sweet Heart Lane, Ram Niwas Bhawan, P.S. - Kadamkuan, District- Patna - 800006.

... .. Petitioner/s

Versus

1. The State of Bihar, through Addl. Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Addl. Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Joint Secretary, Education Department, Government of Bihar, Patna.
4. The Director, Secondary Education, Education Department, Government of Bihar, Patna.
5. The Deputy Director Cum Leave Reserve Officer, Secondary, Education Department, Government of Bihar, Patna.
6. The Chairman, Bihar School Examination Board (Senior Secondary), Budh Marg, Patna.
7. The Secretary, Bihar School Examination Board, (Senior Secondary), Budh Marg Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar, Advocate
For the Respondent/s	:	Mr. Kameshwar Kumar, GP 17
	:	Mr. Stayabir Bharti, Advocate
	:	Mr. Amit Bhushan, AC to GP 17

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 15-12-2021

In the instant petition, petitioner has prayed for the following relief/reliefs:

“(i) For issuance of appropriate writ/writs, order/orders, direction/directions quashing the letter contained in Memo no. 225 dated 30.03.2019 issued under the signature of respondent no. 3 whereby and whereunder the claim of petitioner for absorption/regularization of their services on Class III post under Bihar School Examination Board Patna (herein referred



as Board) has been rejected in the most illegal and arbitrary manner on the erroneous ground.

(ii) For issuance of appropriate writ/writs, order/orders, direction/directions commanding the respondent authorities for consideration and absorption of the services of the petitioner on Class III post in the services of Board by taking into consideration that competent authority appointed the petitioner and further they continuously worked for around 23 years having required qualification and were appointed by the then chairman of erstwhile Bihar Intermediate Education Council after creation of post awaiting sanction of the state Government to meet the requirement of work load however after lapse of two decades, they removed without considering the totality of the circumstances i.e. some similarly situated person (Class III and IV employees) have already been absorbed) but such privilege/benefit have not been extended to the petitioner.

(iii) For issuance of appropriate writ/writs, order/orders direction/directions commanding the respondent authorities to extend all the consequential benefits interm of salary, arrears of salary, increments, seniority, promotion and continuity of service and other consequential benefits that the petitioner may be found to be entitled to upon absorption of their services in Class III, post against the Class III post in respective category in the service of Board in accordance with law w.e.f the date from which other similarly situated persons have been absorbed in the service of the Board and such benefits may also be extended to petitioners.

(iv) For issuance of appropriate writ/writs, order/orders, direction/directions for which petitioners are found entitled in the eye of law and in the facts and circumstances of the present case.”

Short question for consideration in the present petition whether petitioners are entitled to regularization with reference to their services rendered on *ad hoc* basis. Perusal of order dated 30th March, 2019, it is evident that there is no consideration of Full Bench decision of this Court in the case of ***Ram Sevak Yadav and Another vs. The State of Bihar and Others in C.W.J.C. Nos. 267***



and 472 reported in *2013 (1) PLJR 964* read with Apex Court's decision in *Secy., State of Karnataka and Others vs. Uma Devi* reported in *(2006) 4 SCC page 1*.

The competent authority is hereby directed to revisit grievance of the petitioners for the purpose of regularization and pass a speaking order as to whether each of the petitioner fulfills the requisite conditions stipulated in the aforesaid decisions or not?

Such order shall be passed within a period of four months from the date of receipt of this order.

The petitioners are at liberty to file additional representation, if any, along with documents.

With the above observation, writ petition stands disposed off.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.12.2021
Transmission Date	NA

