

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20394 of 2018

1. Vinod Ranjan Kumar and Ors Son of Sri Indrasan Prasad Resident of Village- Ghataila, Police Station- Aswa, District- Siwan, Presently residing at Village- Guthani, Police Station- Guthani, District- Siwan, At Present Posted and Working as an Assistant Teacher in Govt. Middle School Goharua, Anchal- Guthani, District- Siwan.
2. Gopal Jee Yadav Son of Sri Ramtapasya Yadav Resident of Village- Barpalia, Police Station- Guthani District- Siwan, At Present Posted and Working as an Assistant Teacher in Govt. Primary School Khirauli Barpaliya, Anchal- Guthani, District- Siwan.
3. Shambhu Sharan Pandey Son of Sri Ved Vyas Pandey Resident of Village- Tarwa Parsia, Police Station- Darouli, District- Siwan, At Present Posted and Working as an Assistant Teacher in Govt. Middle School Guthani Anchal- Guthani, District- Siwan.
4. Anjani Kumari Rai Son of late Yugal Kishor Rai Resident of Village- Dumarahar, Police Station- Darauli, District- Siwan, At Present Posted and Working as an Assistant Teacher in Govt. Middle School Guthani Urdu, Anchal- Guthani, District- Siwan.
5. Bhrigunath Chauhan Son of late Tilangi Chauhan Resident of Village- Nonia Tola, Police Station- Mairwa, District- Siwan, At Present Posted and Working as an Assistant Teacher in Govt. Middle School Karom, Anchal- Darauli, District- Siwan.
6. Satya Narayan Prasad Son of Ramashray Prasad Resident of Village- Khapjataur, Police Station- Guthani, District- Siwan, At Present Posted and Working as an Assistant Teacher in Govt. Middle School Jhajhaur, Anchal- Guthani, District- Siwan.
7. Ramji Prasad Gupta Son of Chhetilal Prasad Resident of Village- Mairwa Nai Bazar, Police Station- Mirwa, District- Siwan, At Present Posted and Working as an Assistant Teacher in Govt. Middle School Sohrai, Anchal- Guthani, District- Siwan.
8. Ram Sagar Ram Son of Sri Chandeshwar Ram Resident of Village- Bishwania, Police Station- Daraulia, District- Siwan, At Present Posted and Working as an Assistant Teacher in Govt. Middle School Done, Anchal- Darauli, District- Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The District Magistrate, Siwan.
5. The Senior Deputy Collector-Cum-Member of the District Teacher Promotion Committee, Siwan.
6. The Regional Deputy Director of Education, Saran Division, Chapra, Saran.
7. The District Education Officer-Cum-The Chairman of District Teachers



Promotion Committee, Siwan.

8. The District Programmer Officer Establishment -Cum-The Member Secretary, District Teachers Promoti
9. The Block Education Officer, Guthani, District- Siwan.
10. The Block Education Officer, Darauli, District- Siwan.

... ... Respondent/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Adv.
For the Respondent/s : Smt. Shilpa Singh- Ga12

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

- 3 15-11-2022 1. Learned counsel for the petitioner submits that the issue involved in the present writ petition stands adjudicated by this court in case of **Raghavendra Sharma & Ors. Vs. State of Bihar & Ors.** in **CWJC No. 15610/2018** dated 12.09.2022, wherein this court after examining the provisions of the **Promotion Rules of 1993** and the order passed by the Full Bench observed as under :

“13. Keeping in view of above, the concept of retrospective promotion which has been directed to be done away by the letter of the Director, dated 04.01.2010, if found to be unjustified and Patna High Court CWJC No. 15610 of 2018 dt. 12.09.2022 11/12 contrary to the Promotions Rules of 1993. A person who was entitled to be promoted in the year 2007 will have to be considered against the vacancy of 2007, his qualification and eligibility would also be looked for that year. If he was to be denied promotion for any reason, then he should be considered in the next year as per his seniority. Thus, exercise has to be done by the Committee for different years from the year onwards when promotions were not granted.

14. In the circumstances as above, this Court directs the respondents to conduct an exercise



after preparing the seniority list as directed by the Full Bench (supra) positively within a period of six months from today. All the districts will conduct an exercise of determination of vacancies for each year up to 2011, i.e. the date when the new Rules came into force and also prepare seniority list for each year as directed by the Full Bench. Thereafter eligibility list for each year shall be prepared based on the number of persons available under the zone of consideration and the promotion shall be accordingly granted. The pay fixation would be done accordingly, this would be applicable even to those teachers who have attained superannuation as held by the Coordinate Bench in the case of Rana Shankar Prasad & Ors. Vrs. State of Bihar & Ors. (CWJC No.22608 of 2014) decided on 13.09.2018, and passed orders accordingly. It is made clear that the promotion so granted will result in notional benefits from an earlier year and actual benefits shall be paid after fixation from the date actual promotions have been made. In cases where the person has attained superannuation actual retiral benefits would be given along with arrears.”

2. In the present case, the petitioners has prayed as

under:

“For directing the respondent authorities concerned to correct the final list for promotion in Graduate Trained Pay Scale Science/Arts in the district of Siwan, for which, the provisional list of the such matric trained teachers have been published, who have completed eight years of service in matric trained pay scale but erroneously such teachers who have been posted in the district of Siwan even after transfer from another district after losing their seniority, have been kept above the petitioners, the junior teachers have also been kept above the petitioners for consideration for promotion in Graduate Trained pay scale and for directing the respondent authorities concerned to correct the list for promotion in graduate trained pay scale Science/Arts according to seniority of the petitioners, as they are getting matric trained pay scale since 05.09.1999 the petitioners are getting matric trained pay scale notionally but several teachers, who have been appointed in the year 2000 or



after 2001 have been kept above the petitioners in the provisional panel for promotion, which is erroneous one and hence authorities concerned may kindly be directed to correct the seniority list for consideration for promotion in graduate trained pay scale Science/Arts and further for directing the respondent authorities concerned to consider the objections of the petitioners, which has been filed by the petitioners, in which, the petitioners, have categorically mentioned the serial number, by which, the petitioners have indicated the serial numbers to show that such teachers, who are junior to the petitioners have been kept above the petitioners for grant of promotion in graduate trained pay scale from the due date i.e. 30.10.2013, whereas, the petitioners are also entitled for promotion in graduate trained pay scale since 30.10.2013 and to direct the respondent authorities concerned to dispose of the representation/objections, which has been duly received in the office of the District Education Officer, Siwan as well as in the Office of the District Programme Officer (Establishment), Siwan and petitioner nos. 1 to 4 have also filed their appeal/representation before the Regional Deputy Director of Education, Saran Division, Chapra and got the copy of the same received on 13.09.2018 as well as for issuance of any other writ/writs, order/orders, direction/directions for which the petitioners would be entitled in the facts and circumstances of the present case.”

3. Considering that the said prayers and the submissions made in the petition, this court is satisfied that the aforesaid judgment could govern the present case too.

4. Accordingly, the writ petition is allowed in the aforesaid terms.

(Sanjeev Prakash Sharma, J)

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