

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7106 of 2015

Hemant Kumar Jha @ Hemendra Kumar Jha, S/o Late Satishwar Jha,
Resident of Village- Jai Prabhkar Nagar Kayastha tola, Ward No. 29, P.O.
P.S.- Saharsa, District- Saharsa.

... .. Petitioner

Versus

1. The State of Bihar through its Chief secretary, Bihar, Patna.
2. The Commissioner, Human Resources Department, Bihar, Patna.
3. Director, Primary Education, Bihar, Patna.
4. Collector, Saharsa.
5. Regional Deputy Director of Education, Kosi Division, Saharsa.
6. District Education Officer, Saharsa.
7. District Programme Officer (Estb) Saharsa.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Mallika Mazumdar, Adv.
For the State	:	Mr. Ram vinay Prasad Singh, AC to GA 12

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 07-12-2022 Heard learned counsel for the Petitioner and learned
counsel for the State.

The petitioner's claim in the instant writ petition is for promotion in the trained graduate scale and consequential promotion in the Head Master Scale. Respondent Authorities have relied upon Annexure-A to submit that ante-dated promotion cannot be allowed. Annexure-A is a decision of the Human Resource Development Department, dated 04.01.2010, as contained in counter affidavit to the writ petition.

Learned counsel for the petitioner submits that juniors to the petitioner namely Shri Surya Kant Jha, at serial no. 571,



Shri Kamla Kant Jha, at serial no. 586 and also Smt. Bina, at serial no. 597 of the gradation list published in 1994, have been promoted in the year 1989. Since, these persons were junior to the petitioner, the petitioner cannot be denied promotion. It is under similar circumstances that this Court in ***Swarnlata Sinha vs. the State of Bihar & Ors.***, in **C.W.J.C. No. 3456 of 2007** filed by Swarnlata Sinha had relegated the matter to the Authorities for considering the claim. Pursuant to such consideration, Swarnlata Sinha has been allowed the benefit by office order dated 07.09.2013, bearing Memo No. 1896, as contained in Annexure-2 to the writ petition. The petitioner's claim, however, is being resisted, on the strength of decision of the Human Resource Development Department, noted above.

Learned counsel for the State submits that in view of the decision dated 04.01.2010, the petitioner's cannot claim ante-dated promotion.

Considering the rival submissions, this Court is inclined to accept the submission advanced on behalf of the petitioner. The claim is based on the fact that juniors have been allowed promotion, and apparently, is covered by the decision of the ***Swarnlata Sinha vs. the State of Bihar & Ors.***, in **C.W.J.C. No. 3456 of 2007**, pursuant to which Respondent Authorities



themselves have allowed the claim by office order dated 07.09.2013, bearing Memo No. 1896, as contained in Annexure-2 to the writ petition.

The petitioner's claim is also, therefore, to be considered by the Respondent No. 7. If the petitioner's claim, with reference to her juniors, is found to be correct, then the petitioner's claim would come within the purview of a covered matter within Clause- 4.C (1) of the State Litigation Policy, 2011 and the appropriate order are required to be passed in this regard by Respondent No. 7 claiming parity of benefit of the State Litigation Policy.

The petitioner may submit her representation giving entire details before the Respondent No. 7 within four weeks. Respondent No. 7 would be under legal obligation to consider the petitioner's claim in view of the observation withing eight weeks' thereafter.

The claim is required to be disposed of by a reasoned and speaking order in accordance with law.

(Madhuresh Prasad, J)

Raj kishore/-

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