

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7810 of 2015

Paras Nath Prasad son of late Yamuna Prasad, resident of village- Khujawa, P.O.- Khujawa, P.S.- Raghunathpur, District- Siwan, at present posted as an Assistant Teacher in Govt. Upgraded Middle School, Chakari, Anchal- Raghunathpur, District- Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Magistrate, Siwan.
4. The Regional Deputy Director of Education, Saran Division, Saran at Chapra.
5. The District Education Officer, Siwan.
6. The District Programme Officer Establishment, Siwan.
7. The District Treasury Officer, Siwan.
8. The District Accounts Officer, Siwan.
9. The Block Education Officer, Raghunathpur, District- Siwan.
10. The Headmaster-cum-Drawing and Disbursing Officer, Govt. Upgraded Middle School Chakari, Anchal- Ra

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Umesh Kumar Mishra
For the Respondent/s : Mr. Ramadhar Singh, GP-25

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 19-12-2022 The issue involved in this writ application is as to whether the petitioner is entitled to be given Matric trained pay scale with effect from 01.10.2003 or the petitioner is entitled to be given trained scale with effect from the date of appearing in the teacher's training examination with effect from 31.07.2007.

Learned counsel for the petitioner submits that the issue is not *res integra*. He submits that a Single Bench of this Hon'ble Court in judgment passed in CWJC No. 2892 of 2013



(Brajesh Kumar & Ors. vs. The State of Bihar & Ors.) dated 13.05.2015 has held that those candidates who have appeared in the main examination held in the year 2004 and failed in only one or two papers in the 2004 examination and were allowed to appear in the year 2007 as compartmental candidate, their case falls in different class. The court has held that the compartmental examination is part and parcel of the main examination and they are like conjoint twins.

The case of the petitioner is that he appeared in the training examination held in the year 2004 and was issued Admit -Card which has been annexed as Annexure-1 Series of this writ application. The petitioner failed in one subject in the examination held in the year 2004 which is Education in Emerging Indian Society Paper-I and this fact would be evident from the mark-sheet dated June 20, 2005 attached with the present writ application. The further case of the petitioner is that a compartmental examination was held by the Bihar School Examination Board in the year 2007 in which petitioner appeared in only one subject i.e. Education in Emerging Indian Society Paper-I, in which he had failed in the earlier examination held in the year 2004. However, he passed the compartmental examination and obtained 58 marks as is



apparent from the mark -sheet annexed with writ application of the one subject dated February 4, 2008. Learned counsel submits that Hon'ble Single Bench in the aforesaid Brajesh Kumar judgment (Supra) held that the candidates, who sat in the examination in the year 2004, failed in some papers and were allowed to sit as compartmental examinees held in the year 2007, would be treated to have passed the examination in the first attempt itself and their entitlement to pay-scale will be from 01.10.2003 and not from the date they sat in the examination i.e. 31.07.2007. The judgment rendered by the Single Bench has been upheld by the Division Bench in LPA No. 1870 / 2015.

I have heard learned counsel for the parties.

From perusal of the aforesaid Brajesh Kumar judgment (Supra) it transpires that while delivering judgment this Court has categorically mentioned that the decision has been rendered with regard to all such class of persons irrespective of the fact whether they have approached the High Court through the writ application or not, because the State must follow a uniform policy and cannot be seen to be encouraging litigation by compelling individuals to approach the Court for similar reliefs. In other words, the judgment is judgment in rem and not in persona.



In view of the aforesaid facts and law as discussed hereinabove, I direct the petitioner to file a detailed representation / claim before the respondent no. -6 / District Programme Officer (Establishment), Siwan within a period of four weeks. If such representation is filed, the same shall be considered by the respondent no. -6 in the light of the judgment rendered by this court in CWJC No. 2892 of 2013 & LPA No. 1870 of 2015 and the representation filed by the petitioner shall be disposed of by a speaking order within a period of six weeks from the date of filing of the representation.

It is made clear that if Matric scale with effect from 01.10.2003 is found payable to the petitioner, the consequential benefit arising out of the same shall be paid to the petitioner within a period of three months from the date of disposal of the representation, failing which, the respondent no. 6 i.e. District Programme Officer (Establishment), Siwan shall be liable to pay interest at the rate of 6% per annum on the said amount.

With the aforesaid observation and direction, this writ application is disposed of.

(Anil Kumar Sinha, J)

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