

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1581 of 2018

In
Civil Writ Jurisdiction Case No.1205 of 2015

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Ramayan Prasad S/o Gangadhar Prasad Yadav, R/o Village Jalalpur-1, P.O. Rasulpur, P.S. Doriganj, District Saran.

... .. Appellant/s

Versus

1. The State Of Bihar, through its Principal Secretary Cum Commissioner, Department of Education, State of Bihar, Patna
2. The Director Primary Education, Education department, State of Bihar, New Secretariat, Patna.
3. The Director Research and Training, Education Department, Bihar, Patna.
4. The District Magistrate, Saran.
5. The District Education Officer, Saran.
6. The District Programme Officer, Establishment Saran.
7. The Block development Officer, Sonpur, District saran.
8. The Block Education Officer, Sonpur, District- Saran.
9. Mr. Vijay Kumar Singh, S/o Dharikshan Singh, R/o Village Anjai, P.O. Anjani, P.S. Parsa, District-Saran.
10. The Regional Deputy Director of Education, Saran Division, Chapra.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Shashi Shekhar Tiwari, AC to AAG 13

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 01-08-2022

Heard learned counsels for the parties.

2. In the instant appeal, appellant has questioned the validity of the order dated 03.08.2018 passed in C.W.J.C. No. 1205 of 2015. The appellant in writ petition has prayed for the following relief/reliefs:



“I. To direct the respondent authority excluded the name of the which candidates their name included in the promotion list of the B.A. trained scale prepared by the Respondent No. 5 on the basis of who obtained the one year training during service period after enforcement of NCTE Act and who has not fulfilled the criteria of promotion on the post of B.A. Trained Teacher as per concerned rule. As per NCTE Act one year teacher training service is not valid teacher training.

II. To further direct to the respondent authority declared the seniority on the basis of concerned Act by which an untrained teacher may be given Grade 1 from the date of which he becomes trained.”

3. *Prima facie* the contention of the appellant is that he is a trained teacher whereas 9th respondent is not a trained teacher. In that event, having regard to various documents relating to extending of pay scale and other things, the appellant should have been placed over and above 9th respondent in the proposed promotion list *vide* Annexure - 9 to the writ petition.

4. Perusal of the Annexure – 9 read with first prayer in the writ petition, the appellant has not arrayed such of those persons whose rights are likely to be affected in the event of allowing the writ petition. He has impleaded only 9th respondent. Annexure – 9 is only an administrative order. Such order is based on the final seniority list of the feeder cadre namely Graduate Teachers. In the Graduate Teachers final seniority list, 9th respondent has been placed over and above the appellant. Further, it is noticed that the appellant had cause of action on 05.09.1999, the date on which 9th



respondent has been extended certain benefits of pay scale whereas similar benefits have been extended to the appellant in the month of December, 1999. The appellant has not questioned validity of the extending certain service benefits to the 9th respondent as on 01.10.2003 which has been given effect from 05.09.1999.

5. Moreover, as long as ranking assigned in the final seniority list of the feeder cadre is not challenged by the appellant, he is not entitled to challenge administrative decision relating to proposed promotion list. Such a proposed promotional list is based on the final gradation list or existing gradation list of Graduate Teachers as on 25.11.2014 in which appellant has been shown below the 9th respondent. In the light of these facts and circumstances, appellant has not made out a case.

6. Accordingly, L.P.A. stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

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