

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5292 of 2018

Ganesh Pandit Son of Sri Mahadeo Pandit Resident of Village- Therai, P.S. Sangrampur, District- Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Secretary, Primary Education, Government of Bihar, Patna.
4. The Secretary, Department of Art, Culture and Youth, Government of Bihar, Patna.
5. The Director, Primary Education, Government of Bihar, Patna.
6. The Joint Secretary, Department of Art, Culture and Youth, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vipin Kumar, Adv.
For the State : Mr. Madhukar Mishra- SC16

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

4 15-11-2022

1. The petitioner has preferred this writ petition praying for the Matric trained pay-scale on the basis of parity.

2. Learned counsel submits that the petitioner is a graduate and obtained Bachelor of Physical Education degree and was appointed as a Physical Education Teacher at Munger in the in the year 1998. He preferred a writ petition before this Court C.W.J.C. no. 11373/2001 which came to be dismissed on 16.11.2010, holding that the petitioners cannot claim equality with the teachers of the secondary school with regard to grant of



pay scale.

3. Learned counsel submits that thereafter the State of Bihar framed Bihar Special Elementary Teachers Appointment Rules, 2010 and the Physical trained teachers appointed under the Rules of 2010 have been granted matric trained pay scale.

4. The petitioner too is a Physical education trained teacher similar to those who were appointed under the Rules of 2010. He possess the same qualification but is being denied the matric trained pay scale merely because he was appointed prior to 2010. He preferred another writ petition before this Court wherein the Court directed him to prefer a representation to the authorities vide order dated 09.05.2016. Upon disposal of the said writ petition (C.W.J.C. No. 6280/2014), the respondents rejected the representation of the petitioner vide their order dated 09.03.2017 which is under challenged before this court.

5. Learned counsel submits that similarly placed persons cannot be treated dissimilarly. Admittedly those who were appointed under the 2010 Rules as Physical Education Teacher are being granted matric trained scale.

6. The specious argument put up by the counsel for the respondent is such teachers who were appointed under the 2010 Rules on the post of Physical Education Teacher are



treated as a dying cadre and would only draw pay scale till the post is held by them. Upon retirement the post shall be treated as extinguished/abolished. The petitioner therefore cannot claim the same pay scale.

7. I have considered the submission, while those teachers who are appointed under the Rules of 2010 may be holding the post which is a dying cadre. The pay scale being granted to them is matric trained based on their qualification of possessing Bachelor of Physical Education degree.

8. The petitioner too possesses the qualification of Bachelor of Physical Education degree and is also working on the post of physical education teacher substantively.

9. In view thereof, while the petitioners post may not be part of the dying cadre, since he is performing the same work as being performed by the said teachers no discrimination can be drawn with regard to granting of pay and salary to him vis a vis Physical Education teacher appointed under the Rules of 2010.

10. The petitioner is an appointee of the year 1998, he therefore is entitled to be granted the benefit of matric trained pay scale. Respondents are directed to grant the petitioner same benefits of pay as being granted to those who were appointed



subsequent to him on the post of Physical Education teacher under the Rules of 2010. The pay scale shall be made admissible to the petitioners from the date it has come into force, arrears shall also be paid to him within period of three weeks. Accordingly this writ petition is allowed. No costs.

(Sanjeev Prakash Sharma, J)

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Item no. 151

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