

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10884 of 2011

-
-
1. DASHRATH SINGH and ORS Late Prasidh Singh R/O Vill. Jagdishpur, P.O. Singhchak Kiul, Distt. Lakhisarai
 2. Fulmani Sinha W/O Ganga Sagar Singh R/O Vill. And P.O. Pawai, Distt. Lakhisarai
 3. Ram Jyoti Kumari Sharma Rajendra Singh R/O Vill. And P.O. Pawai, Distt. Lakhisarai
 4. Urmila Devi Sri Suresh Prasad Singh R/O Vill. And P.O. Pokhrama, Distt. Lakhisarai

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR and ORS
2. Principal Secretary, Department Of Human Resources, Govt. Of Bihar Patna
3. Director Primary Education, Department Of Human Resources, Govt. Of Bihar Patna
4. District Magistrate Lakhisarai
5. District Superintendent Of Education, Lakhisarai

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv. Mrs. Vaishnavi Singh, Adv. Mr. Ritwik Thakur, Adv.
For the Respondent/s	:	Mr. Tripurari Nath Ambastha, AC to SC 26

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

8 14-02-2023 1. The petitioner by way of this writ petition has
prayed as under:

*“1. That this is an application
for issuance of an appropriate writ, order or
direction for setting aside the order dated
29.5.2010 passed by the District
Superintendent of Education, Lakhisarai by
which he ordered that the degree of*



Sahityalankar is not equivalent to graduation and accordingly their claim of B.A. trained scale will not be considered as well as for a further direction to the respondents to give the benefit of B.A. trained scale to the petitioners with effect from 1993 which has been given to other teachers similarly situated like that of the petitioners with a difference that their qualification was from other institutions.”

2. It appears that after protracted litigation on the question of recognition of the qualification required from Hindi Vidyapeeth Deoghar namely Sahityalankar traveled up to Supreme Court, the controversy stood finally adjudicated by a division bench of this court upon the matter being remanded by the Apex court vide its order dated 6 January 2016 in Civil Appeal No. 4273 / 14 and Civil Appeal No. 4274 / 14.

3. The Division Bench vide its judgment dated 18.07. 2019, **C.W.J.C. 5129/2009 (Sanjay Kumar Vs. the State of Bihar & Ors.)** and other analogous cases held as under:

“12. On behalf of the writ-petitioners a Division Bench judgment in L.P.A. No. 562 of 2015 Shilpi Singh Vs. State of Bihar and others has been pressed into service to urge



that these issues were taken notice of and it has been held that those who were possessed of degrees prior to 27.08.2008, any subsequent disqualification arising out of the said notification would not affect the validity of the said degrees. We have considered the reasoning given in the said judgment and we entirely agree with the same.

15. Thus, the argument to split up the applicability of the said notifications and to apply only to the General Administrative Department is a futile argument, more so keeping in view the fact, that the said notification was further substantiated through the clarification in the notification dated 24th August, 2017 extracted hereinabove. We, therefore, find that the State itself has fortified the stand of the petitioners by issuing a clarification and which, therefore, clearly contradicts the arguments which have been advanced on behalf of the State. We find no reason to accept any of the submissions on behalf of the State to the effect that the notifications dated 08.04.2016 and 24.08.2017 do not apply to the Education/Human Resources Department. The clarificatory notification also in its last note again mentions the fact that the same is being sent to all departments for information and appropriate action.

16. In the light of what has been concluded by us hereinabove, these writ petitions have to succeed on account of this subsequent development and we accordingly hold that



the petitioners in both the writ petitions are entitled to the benefit of the notifications dated 08.04.2016 and 24.08.2017 and consequently their appointments being prior to the issuance of the said notifications are saved thereunder. The petitioner Sanjay Kumar shall, therefore, be reinstated in service forthwith and his termination order dated 13.02.2016 that has been brought on record through I.A. No. 219 of 2017 is hereby quashed. Both the writ petitioners shall be treated to have been validly appointed of being possessed of the qualification referred to above and shall be entitled to all consequential benefits.

17. We may now proceed to consider the claim set forth in C.W.J.C. No. 16183 of 2012 that was referred to the Division Bench by a learned Single Judge as it raised the same issue and L.P.A. No. 894 of 2016. In these two matters the claim of the writ-petitioners and the appellant respectively are with regard to promotional benefits in the higher scale of pay after having served for 8 years as an Assistant Teacher. They were denied promotional pay-scale only on the ground that they did not possess the minimum eligibility qualification as prescribed and were claiming benefits on the strength of the degree of Sahityalankar from Deoghar Hindi Vidyapeeth. In view of what has been concluded by us hereinabove, the petitioner of C.W.J.C. No. 16183 of 2012 and the appellant of L.P.A. No. 894 of 2016 are



both entitled to the benefits of promotion and the same cannot be denied merely on the ground that they were possessed of an equivalent degree as referred to hereinabove. It is undisputed that these two are also in possession of the degree of Sahityalankar having been obtained prior to the year 2008. Accordingly, C.W.J.C. No. 16183 of 2012 and L.P.A. No. 894 of 2016 are allowed. The impugned judgment of the learned Single Judge dated 28.03.2016 is set aside. Since both the candidates have prayed for a mandamus, we accordingly direct the competent authority to pass an appropriate order in the light of above within three weeks from the date of presentation of the certified copy of the order served on them with effect from the date they were entitled for such benefit together with all consequential benefits.”

4. The learned counsel for the State is unable to assist this Court as the Court file of this case which is pending since 2011 is misplaced in their office. Be that as it may, the same would not prevent this Court from finally adjudicating and deciding this case which is pending since 2011.

5. Having noticed the aforesaid judgment in its entirety this Court is satisfied that the decision taken by the District Superintendent, Lakhisarai, denying the petitioner's claim for a higher trained Pay scale which is akin to promotion on the basis of having Sahityalankar qualification from Deoghar is



unjustified. The petitioner would be entitled to the benefits as directed by the Division Bench quoted under para 17 of that judgment (*supra*).

6. Accordingly, the writ petition is allowed on the aforesaid terms. No cost.

(Sanjeev Prakash Sharma, J)

Suraj/-
Item No. 70

U			
---	--	--	--

