

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12979 of 2021

1. Md. Reyaz Alam Son of Md. Sharfuddin Resident of Village- Teliyahat, P.O.- Sarbela, P.S.- Salkhua, District- Saharsa, posted as Panchayat Teacher, Primary School, Gogama, Salkhua, District- Saharsa.
2. Ajra Khatoon Wife of Md. Afaque Alam Resident of Village- Ghordaur, P.S.- Salkhua, District- Saharsa, Posted as Block Teacher Urdu Middle School, Mubarakpur, Salkhua, District- Saharsa.

... .. Petitioners

Versus

1. The State of Bihar through Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director Primary Education, Govt. of Bihar, Patna.
4. The District Education Officer, Saharsa, District- Saharsa.
5. The District Programme Officer (Estab.), Saharsa, District- Saharsa.
6. The Block Education Officer, Salkhua, District- Saharsa.
7. The Block Development Officer, Salkhua, District- Saharsa.
8. The Panchayat Secretary, Gram Panchayat- Mobarakpur, Block- Salkhua, District- Saharsa.
9. The Mukhiya of the Gram Panchayat, Mobarakpur, Block- Salkhua, District- Saharsa.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Sharda Nand Mishra, Advocate Mr. Dhananjay Kumar Gupta, Advocate
For the State	:	Mr. Umesh Narayan Dubey, AC to GP-27

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 11-09-2023 This is a defect free case.

2. Heard learned counsel for the petitioner and learned
counsel for the State.

3. The petitioner in the present case is seeking a Writ in
the nature of Mandamus directing the respondents for
regularisation of the service of the petitioners from 2006 and 2007
till the date of their re-appointment i.e. 27.06.2017 and 27.05.2017



respectively. They are also praying for the other consequential benefits.

4. The case of the petitioners is that they were appointed by the then Selection Committee in the year 2006 and 2007 on the basis of the merit list but certain mistakes were committed by the Selection Committee as it was alleged that they had not followed the procedures prescribed under the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006. The petitioners were terminated but thereafter they have been re-appointed. Their grievance is that they had not been granted trained scale and there is no plausible reason for the same.

5. Learned counsel for the petitioners submits that the case of these petitioners would be covered by the order of this Court passed in CWJC No. 17188 of 2019 and CWJC No. 87 of 2021 which are Annexures '10' and '11' respectively to the writ application.

6. It is submitted that in terms of the Bihar State Litigation Policy, 2011, the respondent Department should consider the case of these petitioners in the light of the judgment of this Court and take an appropriate view of the matter, if the petitioners are found similarly situated.

7. Learned counsel for the State submits that he would have no objection if this Court issues direction to the respondent



authority to examine the case of the petitioners keeping in view the Bihar State Litigation Policy, 2011 and in the light of the judgment of this Court in CWJC No. 17188 of 2019 (Annexure '10').

8. Having regard to the aforementioned submissions, this Court directs the District Programme Officer (Establishment), Saharsa (respondent no. 5) to consider whether the case of the petitioners are identical to the case of the writ petitioners in CWJC No. 17188 of 2019 and CWJC No. 87 of 2021 and in case it is found to be identical, similar reliefs which have been granted to those writ petitioners be granted to these petitioners as well.

9. The order dated 23.08.2019 passed in CWJC No. 17188 of 2019 is being reproduced hereunder for a read reference:-

“The issue raised in the present writ petition is no more res integra. Similar issue was considered by this Court in CWJC No. 14646 of 2017 and analogous cases and vide oral judgment dated 9.4.2018 this Court has held out that the petitioner may not be made to suffer on account of lapse of the respondents in terminating the petitioner and reinstate the petitioner. However, the Court noticing totality of the fact situation has passed the following order:-

“9. In the totality of the facts situation, the Court is of the view that the petitioners, for the period they have worked pursuant to initial appointment, are entitled to payment of salary, so far as the period during which petitioners were kept out of employment due to direction of the Writ Court and affirmed by the LPA Court, petitioners are not entitled to any monetary benefit, however, the period should be counted to the length of



service and teaching experience, which may be available for the petitioners for acquiring other benefit, which is otherwise permissible under the law.

10. In fact, the Division bench of this Court in the case of Prakash Choudhary Vs. State of Bihar and ors, reported in 2012 (2) PLJR 767 has noticed the similar circumstance where Panchayat Teacher was removed on the ground that merit list was ignored and the Division bench in L.P.A. No. 109 of 2011 noticing the fact that the appellant was entitled to be appointed as Panchayat Teacher on account of his merit directed for grant of seniority from the date of initial appointment and all consequential benefits except payment of arrears of salary. In the aforesaid circumstances, the appellant is entitled to benefit of pay fixation and other benefits counting the period during the petitioners were put out of job.

11. In view of the above, the writ applications are allowed to the extent indicated hereinabove.

12. The respondents are directed to grant benefit of seniority and continuity in service, except the monetary benefit. It is needless to state here that the petitioners are entitled to payment of salary, for which they have actually worked.”

In view of the above, the present writ petition is allowed in similar terms”

10. This writ application is disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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