

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8944 of 2023

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Mithilesh Prasad Singh Son of Madan Singh, Resident of village - Pratap-pur,
Karja Anant, P.O.- Karja Dih, P.S.- Kanti, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through the principal Secretary, Education department, Government of Bihar, Patna.
2. The principal Secretary, Finance department, Government of Bihar, Patna.
3. The Director, Primary Education, government of Bihar, Patna.
4. The Regional deputy Director of Education, Tirhut Division, Muzaffarpur.
5. The District education officer, Muzaffarpur.
6. The District program officer, Establishment, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yugal Kishore, Advocate
For the Respondent/s : Mr. Kameshwar Kumar, GP-17

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 26-09-2023 Heard learned counsel for the parties.

2. This writ application has been filed seeking a direction to the respondents to treat the petitioner entitled for the graduate trained pay scale and pay the monetary benefits to the petitioner from the date of his passing of graduation course i.e. in the year 1992 (11.06.1992). Petitioner has retired from service on 29.02.2021.

3. Learned counsel for the petitioner submits that the case of the petitioner would be fully covered by the judgment of this Court passed on 12.09.2022 in CWJC No. 15610 of 2018.

4. A counter affidavit has been filed on behalf of the



respondent no.6. In paragraph nos. '7' to '9' of the counter affidavit, a plea has been taken that petitioner had obtained degree of Sahityalankar from Hindi Vidyapeeth, Deoghar on 11.06.1992 which has been held not a valid degree for purpose of employment or promotion and in this regard reliance has been placed on the judgment of the Hon'ble Division Bench in **CWJC No. 13836 of 2012 (Murlidhar Singh & Ors. Vs. The State of Bihar and Ors.)**. It is submitted that the General Administration Department, Government of Bihar issued Notification No. 5267 dated 08.04.2016 and clarified the situation by holding that Sahityalankar from Hindi Vidyapeeth shall not be recognised as equivalent to a graduation degree. Later on, vide notification contained in Memo No. 10878 dated 24.08.2017, it has been clarified that the degree of Hindi Vidyapeeth, Deoghar has been valid from 07.05.2012 to 08.04.2016 for the purpose of appointment and promotion but after 08.04.2016, no appointment/promotion will be granted on the basis of degree awarded by Hindi Vidyapeeth, Deoghar. In the aforesaid background, it is stated that the petitioner has moved this Court for grant of regular pay scale and promotion in accordance with the Bihar Nationalised Primary School Teacher Promotion Rules, 1993 but the said rule has already



been repealed after enforcement of Bihar Primary Teacher Promotion Rule, 2011 and 2018. The respondent has taken a plea that the claim of the petitioner is not tenable in the eye of law.

5. Having said so, it has been further stated that in the light of order dated 01.04.2019 passed by this Court in MJC No. 2847 of 2018 (Arbind Kumar and Ors. Vs. The State of Bihar and Ors.), the General Administration Department, Government of Bihar, Patna issued order vide Memo No. 5066 dated 11.04.2019 whereby stay has been imposed on the grant of promotion on any government post and even meeting of Departmental Promotion Committee till further order. It is further stated that as soon as the stay on the meeting of the Departmental Promotion Committee is vacated, the claim of the petitioner may be considered by the District Promotion Committee as per law.

6. In course of hearing, the learned counsel for the State has brought to the notice of this Court the Memo No. 10878 dated 24.08.2017 (Annexure A to the counter affidavit).

7. Having regard to the submissions noted herein above, this Court is of the considered opinion that the statements made in the counter affidavit are self-contradictory.



In one of the paragraphs it is stated that the claim of the petitioner is not tenable. If this is the stand of the respondent, then the further stand taken in paragraph '11', that as soon as the stay on the meeting of Departmental Promotion Committee is vacated, the claim of the petitioner may be considered by the District Promotion Committee as per law, does not inspire confidence of this Court. This Court, therefore, deems it just and proper that the issue with regard to the claim of the petitioner be left open and the same will be considered by the Departmental Promotion Committee as and when its' meeting is held after the stay order is vacated or in terms of the order, if any, of this Court, the same shall be taken.

8. This writ application stands dispose of accordingly.

(Rajeev Ranjan Prasad, J)

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