

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11276 of 2022

1. Dilip Kumar Bhagat Son of Baiju Lal Bhagat, Resident of Village - Alawapur, P.O. - Dharha, P.S. - Sarai, District - Vaishali at presently posted as Assistant Teacher U.M.S. Hidayatpur Kathra, District - Vaishali.
2. Shashi Raj, Son of Late Rajeshwar Prasad Singh, Resident of Village - Maudah Dih, P.O. - Maudah, P.O. - Patepur, District - Vaishali at presently posted as Assistant Teacher U.M.S. Sumerganj, District - Vaishali.
3. Manoj Kumar, Son of Jagdish Paswan, Resident of Village and P.O.- Makaidih, P.S. - Patepur, District - Vaishali.
4. Mohammad Alauddin, Son of Late Mohammad Yasin, resident of Village - Pojhia, P.O. and P.S - Lalganj, District - Vaishali, at presently posted as Assistant Teacher M.S. Attauhllapur (Urdu) District - Vaishali.
5. Anju Kumari Wife of Awadhesh Kumar, Resident of Village- Jalalpur, Police Station- Lalganj, District - Vaishali at presently posted as Assistant Teacher, Middle School, Premganj, (Kanha), Police Station - Lalganj, District - Vaishali.
6. Praveen Kumar, Son of Late Sukhdeo Baitha, Resident of Village- Barhatia, P.O.- Majhau, P.S. and District - Vaishali, at presently posted as Assistant Teacher U.M.S. Pratap Tand (Kanya) District - Vaishali.
7. Pradeep Paswan, Son of Late Girdhari Paswan, Resident of Village - Barhatia, Police Station - Vaishali, District - Vaishali, at presently posted as Assistant Teacher, Middle School, Lakhan Sarari, Police Station - Lalganj, District - Vaishali.
8. Manoj Kumar, Son of Jagannath Prasad, Resident of Village and P.O.- Paratap Tand, P.S. - Bhagwanpur, District - Vaishali, at presently posted as Assistant Teacher Primary School Paratap Tand, District - Vaishali.
9. Sushil Sundram, Son of Late Chandra Shekhar Jha, resident of Village - Chakajada, Police Station - Bela, District - Vaishali at present posted as Assistant Teacher Middle School, Tenda (Urdu) Block- Patepur, District - Vaishali.
10. Nawal Kishore Thakur, Son of Late Brahmdeo Thakur, resident of Village - Majhalu, Police Station and District- Vaishali at present posted as Assistant Teacher, Upgrades Middle School Kanti, District - Vaishali.
11. Kapileshwar Thakur, Son of Late Mathura Thakur, Resident of Village - Alawapur, Police Station - Sarai, District - Vaishali, presently posted as Assistant Teacher, Middle School Premganj (Kanya) Police Station - Lalganj, District - Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Addl. Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Addl. Chief Secretary Department of Education, Bihar, Patna.
3. The Director, Primary Education, Department of Education Bihar, Patna.



4. The District Education Officer cum-Chairman District Elementary Teacher Promotion Committee, Vaishali.
5. The District Programme Officer (Estab), District - Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Binod Kumar, Advocate
Mr. Sanjeev Kumar, Advocate
For the Respondent/s : Smt. Shilpa Singh (GA 12)
Ms. Namrata Singh, AC to GA-12

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL JUDGMENT

Date : 09-02-2023

The petitioners by way of this writ petition have
prayed as under :-

*“(i) for quashing of letter dated
05-04-2021 contained in Memo No. 1407
issued the signature of respondent District
Programme Officer (Estab.), Vaishali.*

*(ii) For holding that letter dated
16-12-2019 contained in letter No. 1672
issued under the signature of respondent
Director, Primary Education is fully
applicable in the matter of present petitioners
also.*

*(iii) For direction to respondent
authorities for granting promotion to
petitioners from the date from which juniors
were promoted with all consequential
benefits.*

*(iv) For any reliefs for which the
petitioners are found entitled in the facts and
circumstances of the present case.”*

2. The learned counsel for the petitioners submits that



the question regarding the qualifications obtained from the Hindi Vidyapith Deoghar was a subject matter of protracted litigation before this Court. The writ petitions were filed on the ground that the qualification of Sahitya Alankar being awarded by the Hindi Vidyapit Deoghar was recognized qualification till the State Government issued a notification on 08.04.2016 holding the qualification to be derecognized for the purpose of appointment/promotion. A notification was also issued on 24.08.2017 whereby it was directed that while the qualification has been de-recognized with effect from 08.04.2016, but after 08.04.2016 no person would be granted appointment or promotion on the basis of qualification already obtained even prior to 08.04.2016.

3. The petitioner had acquired the qualification in 2012, but was not granted promotion. He therefore preferred a writ petition before this Court and directions were issued in CWJC No. 4328 of 2019 to the respondents to examine the case of the petitioner and dispose it of by a reasoned order. Accordingly, an order was passed on 5th of April, 2021 rejecting his claim holding that after 08.04.2016, no promotion can be awarded on the basis of the qualification acquired even before 07.05.2012 from Hindi Vidyapith, Deoghar.



4. Almost identical issue came up before a Division Bench in Letters Patent Appeal and CWJC No. 5129 of 2009 decided together on 18th of July, 2019 wherein after noticing the order dated 24.08.2017 (supra) and also the order dated 08.04.2016, the Court held the qualifications acquired prior to 08.04.2016 would be recognized qualification equivalent to a graduate and the persons would be considered for promotion on the basis of the said qualification and treated to be eligible for consideration of promotion. It would be apposite to quote the directions issued by the Division Bench as under :-

“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.”

5. Learned counsel for the petitioners has also relied on the order passed by the Education Department dated 16.12.2019 whereby similarly placed persons were awarded promotion.

6. Having noticed aforesaid aspects, this Court finds that a similar relief deserves to be granted to the petitioners too as they have acquired Sahitya Alankar degree prior to cut off date i.e. 07.05.2012 and the same is recognized qualification to be treated as equivalent to graduate. Since the requirement of



promotion is that a candidate must be graduate, the petitioners would be entitled to be considered for promotion even after 2016 as their qualification would be recognized for all purposes.

7. If the exercise has not been conducted till date, the respondents are directed to conduct an exercise and grant promotion to the petitioners from the date juniors have been so promoted. They would be entitled to all consequential benefits.

8. The writ petition is, accordingly, disposed of.

(Sanjeev Prakash Sharma, J)

Ashwini/-
Item No. 28

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.02.2023
Transmission Date	NA

