

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20050 of 2019

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1. Ajay Kumar Chaudhary S/o Late Rajendra Chaudhary R/o Village-Dumharpatti, P.S. Pupri, Distt- Sitamarhi. A/p posted as Assistant Teacher (Matric Trained) in Middle School Vikrampur, Block- Pupri, Distt- Sitamarhi.
 2. Om Prakash Pandey S/o Late Braj Kumar Pandey R/o Village- Belwa, P.S.- Piprahi, Distt- Seohar. A/p Posted as Assistant Teacher (Matric Trained) in Middle School Patahi, Block- Bairgenia, Distt- Sitamarhi.
 3. Jagdish Ram S/o Late Nathuni Ram R/o Village- Choraut, P.S.- Choraut, Distt- Sitamarhi, A/p posted as Assistant Teacher (Matric Trained) in Middle School Balarua Choraut, Block- Choraut, Distt- Sitamarhi.
 4. Bhogendra Ram S/o Late Lalchand Ram R/o Village- Dumharpatti, P.S. Pupri, Distt- Sitamarhi. A/p posted as Assistant Teacher (Matric Trained) in Primary School Pachasi, Block- Pupri, Distt- Sitamarhi.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Director Primary Education, New Secretariat, Government of Bihar, Patna.
3. The Regional Deputy Director of Education, Muzaffarpur.
4. The District Education Officer, Sitamarhi.
5. The District Programme Officer (Establishment), Sitamarhi.
6. The Block Education Officer, Choraut, Sitamarhi.
7. The Block Education Officer, Pupri, Sitamarhi.
8. The Block Education Officer, Bairgenia, Sitamarhi.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 24654 of 2019

1. Pradeep Kumar S/o Late Satya Narayan Singh R/o-Village-Bijulpur Tola Bankati, P.S.-Turkauliya, East Champaran, Presently Posted in Upgraded Middle School Sapahi Jatwa, Block-Turkauliya, East Champaran.
2. Manoj Kumar, S/o Late Ram Wilas Ray R/o-Village-Aam Gachhi, P.S.- Chiraiya, East Champaran, Presently Posted in Upgraded Middle School Baidhyanathpur, Block-Chiraiya, East Champaran.
3. Chunchun Kumar S/o Late Ranjit Singh R/o-Village-Khartari, P.S.-Charaiya, District East Champaran, Presently Posted in U.M.S. Patkhauliya, Block-Chiraiya, District-East Champaran.
4. Dheeraj KUMAR Pandey S/o-Late Surendra Nath Pandey R/o-Village-Bandhu Barwa, P.S.-Ramgharhwa, District-East Champaran, Presently Posted in U.M.S. Dainiya Tola,, Block-Ramgharhwa, East Champaran.



5. Umesh Narayan Singh S/o Late Rudra Narayan Singh R/o-Village-Ramgarhwa, P.S.-Ramgharhwa, East Champaran, Presently Posted in Middle School Prasauna Madan, Block-Ramgarhwa, East Champaran.
6. Manoj Kumar Chauhan, S/o Late Raghunath Mahto, R/o-Village-Laukariya P.S.- Palanawa, District-East Champaran, Presently Posted in Middle School Belwa Anandiganj, Block-Raxaul, East Champaran.
7. Mahesh Prasad Verma, S/o Bachcha Prasad, R/o-Village-Purandarpur, P.S.-Macaht, East Champaran, Presently Posted in Primary School Chatiya Tola, Mathiya, Block-Areraj, East Champaran.
8. Rajiv Kapoor Dhiraj, S/o Late Dhiraj Ray, R/o-Village-Bijbani, P.S.-Jitna, East Champaran, Presently Posted in Middle School Ghorasahan Boys, Block-Ghorasahan, East Champaran.
9. Neeraj Kumar Sharma S/o-Late Chandeshwar Prasad Singh R/o-Village-Ruphara, P.S.-Shikhar Ganjh, East Champaran, Presently Posted in U. Middle School Kapoor Pakri (Kasba tola), Block-Chiraiya, East Champaran.
10. Uma Devi W/o Late Brijnath Ram R/o-Village-Parshurampur, P.S.-Pipra, East Champaran, Presently Posted in U. Middle School Parshurampur, Block-Chakiya, East Champaran.
11. Ajit Prasad S/o Late Baidhnath Mahto, R/o-Mishra Gram, P.S. PUchhariya, East Champaran, Presently Posted in Middle School Emiliya Toal Block-Sangrampur, East Champaran.
12. Md. Sajid Majid S/o Late Abdul Majid R/o-Village-Izorbara, P.S-Fenhara, East Champaran, Presently Posted in Primary School Izorbara (North), Block-Fenhara, East Champaran.
13. Gita Kumari D/o Late Parmanand Pandey, R/o-Nawada, P.S.-Kotwa, East Champaran, Presently Posted in U.M.S. Nawada, Block-Kotwa, East Champaran.
14. Pramod Kumar Chaudhary S/o-Late Yogendra Baitha, R/o-Village-Bhawanipur, P.S.-Sangrampur, East Champaran, Presently Posted in M.S. Block-Sangrampur, East Champaran.
15. Abhishek KUMar S/o Late Etwar Pandey R/o-Village-Bariyariya, P.S.-Sangrampur, East Champaran, Presently Posted in Middle School Sangrampur, Block-Sangrampur, East Champaran.
16. Md. Irashad Alam S/o Late Md. Kahimuddin, R/o-Fhenhara, P.S.-Phenhara, East Champaran, Presently Posted in Primary School Izorbara West, Block-Phenhara East Champaran.
17. Md. Tahsinuzzaman, S/o-Late Md. AzaharEman, R/o-Chandanbara, P.S.-Dhaka, East Champaran, Presently Posted in U.M. School Pandari Urdu Balak, Block-Dhaka, East Champaran.
18. Suresh KUMar Chaurasia, not Known R/o Dhekaha Bisunpur, P.S.-Pipra Kothi, District-East Champaran, Presently Posted in Middle School Dhekaha, Anchal-Motihari Dehat, District-East Champaran.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.



2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Principal Secretary, Department of Finance, Government of Bihar, Patna
4. The Director (Primary Education), Government of Patna, Patna.
5. The District Magistrate, East Champaran, at Motihari.
6. The District Education Officer, East Champaran, at Motihari.
7. The District Programme Officer (Establishment), East Champaran, at Motihari.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 5815 of 2020

Chhedan Pathak S/o- Late Santji Pathak, R/o Village -Mosidha, P.S. Choraut, Distt- Sitamarhi. A/p posted as Assistant Teacher (Matric Trained) in Middle School Mosidha Hindi, Block-Choraut, Distt- Sitamarhi.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna
2. The Director Primary Education new Secretariat, Government of Bihar, Patna
3. The Regional Deputy Director of Education, Muzaffarpur.
4. The District Education Officer, Sitamarhi.
5. The District Programme Officer (Establishment), Sitamarhi.
6. The Block Education Extension Officer, Choraut, Sitamarhi.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 6367 of 2023

1. Ram Ekwil Ram S/o Late Premanand Mehara @ Parmanand Mehara, R/o Village - Rohua, P.S. - Sonbarsa, Distt. - Sitamarhi. A/p posted as Assistant Teacher (Matric Trained) in Government Middle School Kohwarwa, Block - Sonbarasa, Distt. - Sitamarhi.
2. Kumar Jay Prakash S/o Late Ram Bujhawan Sah @ Ram Bujawan Saw, R/o Village - Mahuawa, P.S. Bathnaha, Distt. - Sitamarhi. A/p posted as Assistant Teacher (Matric Trained) in Government Middle School Sirsiyan, Block Bathnaha, Distt. - Sitamarhi.
3. Umesh Kumar Singh S/o Late Ramchandra Singh, R/o Village- Mayurwa, P.S. Sonbarsa, Distt. - Sitamarhi. A/p posted as Assistant Teacher (Matric Trained) in Government Middle School Mayurwa, South, Block - Sonbarsa, Distt. - Sitamarhi.

... .. Petitioners

Versus



1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Director Primary Education, New Secretariat, Government of Bihar, Patna.
3. The Regional Deputy Director of Education, Muzaffarpur.
4. The District Education Officer, Sitamarhi.
5. The District Programme Officer (Establishment), Sitamarhi.
6. The Block Education Officer, Sonbarsa, Sitamarhi.
7. The Block Education Officer, Bathnaha, Sitamarhi.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 20050 of 2019)

For the Petitioner/s : Mr. Jai Prakash Verma, Advocate

For the Respondent/s : Mr. Madhaw Pd. Yadaw, GP-23
Mr. Rajesh Kumar Sinha, AC to GP-23

(In Civil Writ Jurisdiction Case No. 24654 of 2019)

For the Petitioner/s : Mr. Jai Prakash Verma, Advocate

For the Respondent/s : Mr. Mrigendra Kumar, AC to GP-20

(In Civil Writ Jurisdiction Case No. 5815 of 2020)

For the Petitioner/s : Mr. Jai Prakash Verma, Advocate

For the Respondent/s : Mr. Madhaw Pd. Yadaw, GP-23
Mr. Rajesh Kumar Sinha, AC to GP-23

(In Civil Writ Jurisdiction Case No. 6367 of 2023)

For the Petitioner/s : Mr. Jai Prakash Verma, Advocate

For the Respondent/s : Ms. Meera Singh, AC to GP-23

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 03-07-2023

Heard learned counsel for the petitioners and learned counsel for the State.

2. On the request of the learned counsel for the parties, these four writ applications have been taken up together for consideration.

3. In all these writ applications, there is a common prayer to issue a writ in the nature of Mandamus directing the respondents to grant matric trained scale to the petitioners with



effect from completion of two years/three years of their respective joining between the year 1984 to 2003. The petitioners are also praying for a direction to pay all the arrears and the consequential benefits.

Brief facts of the case

4. In order to appreciate the issues involved in these writ applications, this Court would briefly refer to the facts of the case hereunder.

CWJC No. 20050 of 2019

5. In this writ application, the petitioner nos. 1 and 2 were appointed on compassionate ground whereas petitioner nos. 3 and 4 were the direct recruits pursuant to the advertisements. Petitioner no. 1 joined on 12.02.1997. In his appointment letter, there was a stipulation that he would obtain training within a period of three years from the date of his joining. The case of the petitioner no. 1 is that he was relieved for obtaining one year training in Mahila Teacher Training College, Dumara, Sitamarhi and thereafter on completion of training on 29.04.2000, he was relieved from the training centre to join at his place of posting. Subsequently, in the year of 2004, examination was conducted in which he failed. Thereafter he appeared in the training examination held on 31.07.2007 in which result was published on



04.02.2008. He passed the said examination and accordingly he was granted Matric Trained Scale with effect from 31.07.2007.

6. The petitioner no. 2 joined on 07.05.2003. He had the same and one stipulation in his appointment letter. In his case, he completed his two years training course (Diploma in Primary Education) from Indira Gandhi Open University (hereinafter referred to as the 'IGNOU') in the session 2007-09 but the said training certificate was not recognized by National Council for Teacher Education (hereinafter referred to as the 'NCTE'), thus, he was sent for six months 'Samvardhan' course through the Department in the year 2012. He passed the said 'Samvardhan' course with effect from 09.12.2012. The petitioner no. 2 was allowed matric trained scale.

7. Learned counsel for the petitioners has admitted at the Bar that all the petitioners in this batch of writ applications have been granted matric trained scale with effect from the date of their passing the training examination.

8. Petitioner no. 3 joined his service on 14.08.1984. He had to obtain training within a period of two years from the date of his joining at his own cost. He was relieved to undergo one year training for the Session 1999-2000. It is not his case that during the period 1984 to 1999, he ever approached the authorities to send



him for training or to allow him to do the training course at his own cost. The only averment of the petitioner no. 3 is that he underwent training during the Session 1999-2000, thereafter, in the year 2004 examination was conducted and result was published in the year 2005 in which he failed. He again appeared in the Primary Teacher Training Examination in the year 2007 conducted through the Bihar School Examination Board, Patna which he passed on 01.11.2008. He admits that he was granted matric trained scale with effect from 01.11.2008 but his prayer is to allow him the said scale from 14.08.1996 i.e. on completion of two years of joining.

9. The petitioner no. 4 joined his service on 14.08.1984. He was also required to obtain his training within a period of two years from the date of his joining at his own cost. Like petitioner no. 3, he also got relieved to join in Mahila Primary Teacher Education College, Dumra, Sitamarhi for obtaining one year training for Session 1999-2000. He has not made any statement in the writ application that during the period 1984-1999, he ever approached the authorities to relieve him to undergo the training course. The case of the petitioner is that he appeared in the Teachers' Training Examination held in the year 2004, the result was published in the year 2005 in which he failed but subsequently passed in the examination held by the Bihar School Examination



Board in the year 2007. He has also been granted matric trained scale with effect from 01.11.2008 but his grievance is that he should have been granted the scale with effect from 14.08.1986.

10. Learned counsel for the petitioner has, at the outset, submitted that this Court may, taking note of an order dated 11.04.2018 passed by a learned Co-ordinate Bench of this Court in **CWJC No. 7322 of 2017 (Abdus Samad Vs. The State of Bihar and Ors)**, direct the respondent authorities to consider the case of the petitioners in the light of the said order.

11. The writ application has been opposed by learned counsel for the State. Learned counsel for the State has submitted that the petitioners have been granted matric trained scale with effect from passing of their two years training course which is in consonance with the Hon'ble Division Bench judgment of this Court in **LPA No. 1699 of 2013 (Kranti Kanak and Ors. Vs. The State of Bihar and Ors.)** which arose out of CWJC No. 14652 of 2012.

12. Learned counsel for the State has drawn the attention of this Court towards Annexure 'A' to the counter affidavit filed in CWJC No. 5815 of 2020. Annexure 'A' is Memo No. 455 dated 30.03.2019 issued by the Department of Education, Government



of Bihar in the light of the judgment of the Hon'ble Division Bench of this Court.

13. Learned counsel for the State submits that so far as the case of **Abdus Samad** (Supra) is concerned, in the said case the learned Co-ordinate Bench has not decided any issue, therefore, it is not a judgment on any point deciding the lis. He has submitted that in case of **Abdus Samad** (Supra) after taking note of the submissions of learned counsel for the petitioner, the learned Writ Court disposed of the writ application with a direction to the respondents to consider the case of the petitioner for grant of matric trained scale on completion of three years from the date of appointment of the petitioner. The respondents were directed to take necessary decision in this regard.

14. At this stage, this Court has also been informed that the facts mentioned in the order dated 11.04.2018 of the learned Co-ordinate Bench would show that in the said case the submission on behalf of the petitioner was that there was no lapse on their part in not undergoing the training course within the stipulated period and the delay had been caused on account of dilly dally and lapse of the respondents for which they cannot suffer. The petitioner in the said case had passed the training at first instance whereas in the present case the petitioners who were



appointed in the year 1984 have not made any averment in the writ application to explain as to why for about fifteen years till the year 1999 they did not undergo the training course which they had to undergo at their own cost. It is submitted that the petitioners had failed in the examination conducted immediately after they had undergone the training course and they could make it a pass only in the second attempt.

15. These are, according to learned counsel for the respondents, other distinguishable features of these cases.

CWJC No. 24654 of 2019

16. In this writ application, there are altogether 18 petitioners. All the petitioners were appointed on the post of Assistant Teacher in different elementary schools in the district of East Champaran between the year 1991 and 2004 on compassionate ground. It is their submission that they were regularly approaching the authorities for sending them in the training courses, however, with the writ application save and except the statements, no representation/document has been enclosed to support those statements.

17. In this case, the petitioner no. 16 was sent for one year in service training during the Session 2005-2006 of which result was published on 04.02.2008. The rest of the petitioners, it



is submitted, were not sent for one year in service training but the State Government executed an agreement with the IGNOU for imparting training to untrained teachers. Ultimately, the petitioner nos. 1, 4, 6, 7, 8, 10, 11, 12, 13, 14, 15, 17 and 18 were sent for training in the Session 2007-09. Their results were published on 01.03.2010.

18. Petitioner no. 9 was sent for training in 2009-2011 Session and result was published on 24.01.2012. Petitioner no. 5 was sent in training session during 2010-2012 and his result was published on 26.11.2012. As regards petitioner nos. 2 and 3, it is stated that they were sent for training in the Session 2013-2015 and result were published on 31.03.2019. After completion of training, they appeared in the examination and passed whereafter they have been granted matric trained scale with effect from the date of passing of their examination. These petitioners are also relying upon the order dated 11.04.2018 passed in CWJC No. 7322 of 2017.

19. Learned counsel for the State has once again opposed this writ application on the grounds inter-alia that it is not the case of the petitioners that these petitioners had to undergo the training at the facilities and the cost to be provided by the State.



20. Learned counsel points out from Annexure '2' which is the Circular Letter dated 08.08.1991 with regard to appointment on compassionate ground and the necessity of undergoing the training programmes that as per the Circular Letter, these petitioners were to be given matric (untrained) scale with effect from the date of their joining on compassionate ground until they pass the training examination. As per paragraph '3' of this Circular, the compassionate appointees had liberty to undergo the training courses commencing within three years from the date of their appointment and for this purpose they were required to obtain order. It is submitted that in none of these writ applications, it is the averment of the petitioners that they ever applied for obtaining order from the State to enable them to undergo the training course.

21. It is submitted that in case of **Abdus Samad** (Supra), a submission was made by the petitioner that it was the obligation of the respondent authorities to send the petitioner for the training course whereas the facts are otherwise.

CWJC No. 5815 of 2020

22. In this writ application, the sole petitioner joined as Assistant Teacher (Untrained) in Primary School, Kanta, Harizon, Cricle Gayghat, District- Muzaffarpur on 08.04.2002. It is stated in the writ application that in case of similarly situated persons, there



was a stipulation in the appointment letter to complete the training course within three years from the date of joining but the said clause has not been wrongly added in letter of appointment of the petitioner. The petitioner, thus, admits that he was obliged to undergo the training course and pass out the training examination within a period of three years from the date of joining.

23. According to the petitioner, he was sent for obtaining two years training in the year 2007, he completed the same but because his education was not recognized by the NCTE, he was sent for six months 'Samvardhan' course in the year 2012 which he subsequently passed in the month of December, 2012.

24. Learned counsel for the petitioner submits that this petitioner has been granted matric trained scale from the date of passing of his two years training course from IGNOU but according to him, the petitioner would have been entitled for the matric trained scale with effect from 08.04.2005.

25. Learned counsel for the State has opposed this writ application as well on the grounds which have already been indicated hereinabove.

CWJC No. 6367 of 2023

26. In this writ application, altogether three petitioners are the appointees on compassionate ground. Petitioner no. 1 was



appointed on 02.07.2001. He had to pass out the training within a period of three years from the date of joining. His grievance is that he was sent for training in the Session 2007-09 instead of the year 2004 i.e. on completion of three years. He had also undergone 'Samvardhan' course.

27. The petitioner no. 2 was appointed on compassionate ground on 02.07.2001 and he had also gone for training in the Session 2007-09 and thereafter did 'Samvardhan' course. It is their grievance that the petitioner nos. 1 and 2 were not sent for training within a period of three years from the date of their respective joining by the Department.

28. Petitioner no. 3 was appointed on 06.05.2003. He had undergone training during the Session 2017-18. In the writ application, however, there is no statement that in between the year 2003 and 2017, the petitioner no. 3 ever applied for permission to undergo the training course. He has also been allowed matric trained scale with effect from the date of passing of his two years training course.

29. Learned counsel for the petitioners has made identical submissions in all the four writ applications and learned counsel for the State has opposed these writ applications on the grounds which have been taken note of by this Court hereinabove.



Consideration

30. Having heard learned counsel for the petitioners and learned respective counsel for the State in these writ applications as also on perusal of the records, this Court finds at first instance that in all these writ applications, a completely wrong impression has been sought to be given to this Court that these petitioners were not sent for training by their employer for no fault on their part.

31. Neither in the writ applications there is any averment supported by any material on the record that it was the obligation of the State to send these petitioners for two years training course nor in course of submissions learned counsel for the petitioners could lay his hand on any material on the record, rules, resolutions or the circulars of the government to demonstrate that such untrained teachers who were appointed in the year 1984 or 1987 either pursuant to the advertisement or on compassionate ground were required to be sent for training by the State. Rather, the materials which this Court has noticed above would show that in some of the appointment letters it was stated that the appointee had to undergo the training course at his own cost.

32. The another fact which has come to the notice of this Court is that even as the petitioners are claiming that they



approached the respondents but were not sent for training, save and except the bald statements in the writ applications, no document by way of representation has been enclosed in support thereof. The writ application maintains complete silence without there being any explanation as to why for more than 10 years or about 15 years these petitioners did not make any representation to the authorities or approached this Court for a direction to the respondents to send them for training, if at all the respondents were obliged to do so.

33. A reading of the writ applications would show that these writ applications have been filed only to create an issue and that is why a simple prayer was made on behalf of the petitioners to direct that their cases be considered by the respondents in the light of the direction of this Court vide order dated 11.04.2018 passed in CWJC No.7322 of 2017.

34. This Court agrees with the submissions of learned counsel for the State that the order dated 11.04.2018 is not a judgment on an issue raised in the writ application. The contest of the State based on the judgment of the Hon'ble Division Bench of this Court in **LPA No. 1699 of 2013 (Kranti Kanak)** (Supra) have not been contested by learned counsel for the petitioners. The judgment of the Hon'ble Division Bench of this Court is binding



upon this Court. The relevant part of the said judgment is quoted hereunder for a ready reference:-

“13. In order to save injustice and protect the rights of the petitioners/appellants, we would, thus, hold that the judgment of the learned Single Judge would continue to operate. The petitioners/appellants would be entitled to Matric trained scale from the day they completed the two years module. In other words, they would be deemed to be Matric trained teachers from the time the results were declared in respect of the two years course of IGNOU subject to their clearing six months course as later prescribed. They would not be treated as Matric trained either for the purposes of seniority or for financial benefits from the date they finally completed the six months course in the year, 2014 because all that delay was caused by the State in which petitioners/appellants have no role to play.

14. Thus, this appeal is, accordingly, allowed and the judgment of the learned Single Judge, to the extent above, is explained and modified.

15. Consequently, the decision of the State Government to postpone the grant of Matric trained scale and its benefits to a date after clearing the six months course would not apply to these petitioners/appellants accordingly.”

35. To this Court, it appears that the prayer of the petitioners at this stage to allow them matric trained scale with arrears of salary with effect from the year 1986 i.e. on completion of two years or three years from the date of their joining only indicates that they are fighting a luxurious litigation. On the face of the decision of the Hon’ble Division Bench of this Court in the



case of **Kranti Kanak** (supra), the directions sought for in these writ applications cannot be issued by this Court.

36. Let it be recorded that even as the copy of the counter affidavit was not served upon learned counsel for the petitioners, learned counsel has made a statement at the Bar that since the case is being contested on the basis of the judgments of this Court, he would not seek any adjournment on this ground and would argue the matter.

37. Keeping in view the aforesaid submission, these writ applications have been heard and disposed of.

(Rajeev Ranjan Prasad, J)

lekhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	07.07.2023
Transmission Date	

