

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24873 of 2019

1. Sanjay Kumar Son of late Rajendra Prasad Sharma, Resident of Village- Mahmadpur, P.S. Garkha, District- Chapra.
2. Manoj Singh, Son of late Raj Krishna Singh, Resident of Village- Bharhorpur, P.O. and P.S. Akma, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Education, Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The Deputy Director, Primary Education, Bihar, Patna.
4. The District Magistrate, Saran at Chapra.
5. The Regional Deputy Director of Education, Saran at Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar Tiwary, Adv.
For the State	:	Mr. Mrigendra Kumar. AC to GP 20

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

3 24-01-2023 1. The petitioner by way of this writ petition claims for grant of Matric trained pay scale from the date of appointment and assails the order dated 21.08.2019 passed by the respondent rejecting such a claim.

2. Learned counsel submits that the petitioner was appointed as an Assistant Teacher after doing Matriculation on 06.06.1995 as an untrained Assistant Teacher. Petitioner no. 2 was appointed on 21.07.1992 as an untrained Assistant Teacher. They appeared and participated in the Teacher Training held in the year 2004 and passed the same. They were granted Matric



trained scale with effect from 20th June 2005 vide order dated 21th June 2008.

3. Learned counsel for the petitioner submits that this Court in **Ram Ashis Tiwary Vs. The State of Bihar** in **C.W.J.C. No. 6139/2007**, directed the respondents to grant Matric trained pay scale from the date of appointment. The learned counsel also relied on one judgment passed in **Abdus Samad Vs. The State of Bihar** in **C.W.J.C. No. 7322/2017** decided on **11.04.2018** to submit that the respondents ought to grant Matric trained pay scale on completion of three years from the date of joining as the petitioners cannot be faulted in the matter of non sending him for service training.

4. The learned counsel also relies on a circular issued by the Education Department dated 05.01.2015 and submits that those who were appointed prior to 05.09.1997 and cleared the training in the first attempt would be entitled for notional pay fixation in the Matric trained pay scale with effect from 05.09.1999 up to 30th September 2003 and actual benefits from 01.10.2003. Learned counsel submits that the petitioner is similarly situated and would therefore be entitled to the same benefit as provided in the circular Class 4 (1) as noticed above.

5. The respondents have filed counter-affidavit and



stated that the petitioner no. 1 was only Intermediate at the time of his appointment on compassionate grounds on 06.06.1995. As per Department circular dated 11.11.1975, only Matric trained Graduate candidates would be eligible for appointment of Assistant Teacher in basic school. The petitioner was sent for one year training in Session 1999-2000. He passed the said examination on 20th June 2005 and therefore, from the date of passing of the training examination they have been granted the Matric trained pay scale. Further, first ACP was granted with effect from 20th June 2015 on completion of ten years of service after passing the training examination. Such a provision of grant of ACP is not available to teachers working in the Primary and Middle School and the provision for grant of Matric trained Graduate senior pay scale and pay scale is applicable to the trained teachers of Government Primary and Middle School. Having noticed this fact, that the petitioner falls in a different class altogether, his claim for Matric trained pay scale in compliance of the circular of 05.01.2015 was found to be not made out and therefore, his claim was rejected vide order dated 21.08.2019.

6. I have considered the submission. The petitioner was appointed in the basic school and has been granted the



benefit in terms of the circular issued on 11.11.1975 from the date he has acquired the training he was granted benefit of ACP too. The benefit of grant of Matric trained pay scale which is available to teachers of the Primary and Secondary Schools is found to be not applicable to the petitioner. The judgments which have been cited by learned counsel relate to teachers who were working in the Primary School and Secondary Schools. The case of the petitioner being on different footings altogether cannot be equated. He does not form the same homogeneous class as the teachers of Primary and Secondary School.

7. The writ petition is wholly mis-concieved and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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