

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20545 of 2019

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1. Manoj Kumar Son of Shyam Deo Ram, Resident of Village- Jagdeopur, Block- Piro, P.O. Pachrukha, P.S. Agiaon Bazar, District- Bhojpur, Pin -802204
 2. Rajeev Ranjan Rakesh, Son of Sona Ram, Resident of Village- Bachari, P.S. Piro, District- Bhojpur.
 3. Rama Raman Mishra, Son of Yogendra Mishra, Resident of Village- Sahar, P.S. Sahar, District- Bhojpur, Pin- 802208
 4. Manoj Kumar Dubey, Son of Yogendra Dubey, Resident of Village- Lahthan, P.S. Piro, District- Bhojpur.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The District Education Officer, Bhojpur.
4. The District Programme Officer, Establishment, Bhojpur.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Jitendra Acharya, Advocate
For the Respondent/s : Mr. Prabhakar Jha (GP-27)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 31-08-2023 Heard learned counsel for the petitioners and learned
counsel for the State.

2. Petitioners in the present writ application are
seeking the following reliefs:-

“(i) To quash the office order issued by
the D.E.O., Bhojpur under Memo No. 2357,
2358, 2359, 2356 all dated 01.08.2019 and
further for issuance of writ of Mandamus
commanding the respondents authority to
extend the benefit of Regular Pay Scale as their



cause of action arose prior to 01.07.2006 for compassionate appointment.

(ii) For issuance of writ of Mandamus directing the Respondent authorities to extend the same and similar benefits, as per Rule 4(C) of the Bihar Litigation Policy, 2011 to the petitioners as similar situated teachers got benefits by various judgments of the Hon'ble Court some of them are vide order dated 18.04.2018 passed by Hon'ble Division Bench in L.P.A. No. 1472 of 2015 (The State of Bihar & Ors. vs. Rhituraj Saraubh & Another), order dated 11.05.2018 passed in CWJC No. 8963 of 2018 (Chandrashekhhar Azad & Ors. Vs. The State of Bihar & Ors.) order dated 28.04.2015 passed in L.P.A. No. 1543 of 2010 (The State of Bihar & Others Vs. Pooja Mishra & Others).

(iii) For issuance of writ of Mandamus directing the respondent authorities to grant all consequential benefits to the petitioners, and

(iv) For issuance of any other writ/ direction/ order for which petitioners would be found entitled in fact and circumstance of the present case.”

3. It appears from the order dated 15.10.2019 passed in this case that this case was directed to be listed after disposal of CWJC No. 15626 of 2019. At this stage, learned counsel for the petitioners has placed before this Court a copy of the judgment of the Hon'ble Division Bench in CWJC No. 15626 of 2019. The Hon'ble Division Bench has been pleased to answer



the reference made by the learned Writ Court. Paragraph '31' of the judgment of the Hon'ble Division Bench reads as under:-

“31. The fifth question as to whether the judgment of the Hon'ble Apex Court in the case of **Bihar Secondary Teachers Struggle Committee & Ors.** (supra) is a settler on the point that the cadre of the Assistant Teacher is dying cadre, I am of the view that the State Government having taken a plea before the Hon'ble Supreme Court that the cadre of the Assistant Teacher is a dying cadre and the same has been accepted by the Hon'ble Apex Court, it has to be taken as a settler on the point that the cadre of the Assistant Teacher is a dying cadre but the question as to whether it applies to the case of the present petitioners, I am of the view that it would not apply to the facts of the present case, therefore, these petitioners would not be affected. These petitioners have been appointed as Assistant Teachers by virtue of the direction of this Court which has attained finality. The judgment of the Hon'ble Supreme Court is in a case in which the issue of dying cadre was raised by way of a submission only to contest the claim of equal pay for equal work by Niyojit Shikshak.”

4. Learned counsel for the petitioners submits that the case of these petitioners will be covered by the judgment of the Hon'ble Division Bench in CWJC No. 15626 of 2019 which has finally been disposed of by the learned Writ Court vide order



dated 14.09.2020 in terms of the reference answered by the Hon'ble Division Bench vide judgment dated 13.02.2020.

5. Mr. Prabhakar Jha, learned GP-27 appears for the State and submits that the case of the petitioners shall be examined by the Department keeping in view the Bihar Litigation Policy, 2011 and in case it is found that the case of the petitioners is similar to the petitioners in CWJC No. 15626 of 2019, similar relief shall be granted to the petitioners.

6. Let the case of the petitioners be examined by the Department keeping in view the judgment of the Hon'ble Division Bench in CWJC No. 15626 of 2019 and taking an appropriate view of the matter within a period of two months from the date of receipt/ production of a copy of this order. In case their case is found similarly situated, they would also be entitled to the same consequential reliefs which have been granted to the petitioners in CWJC No. 15626 of 2019 .

7. In case the Department finds any distinguishing feature in the case of these petitioners, a reasoned order shall be communicated to them within the same period.

8. This writ application stands disposed of.

(Rajeev Ranjan Prasad, J)

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