

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.801 of 2023

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1. Upendra Kumar Tiwari Son of Late Bishwanath Prasad Tiwari, Resident of Village- Dahibhatta, Police Station- Uchkagaon, District- Gopalganj.
 2. Birendra Prasad Son of Late Asharfi Sah, Resident of Village- Basdila, Police Station- Gopalganj Town, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Baily Road, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The Deputy Director, Primary Education, Government of Bihar, Patna.
4. The District Education Officer, Gopalganj District Gopalganj, District- Gopalganj.
5. The District Education Officer, Bhojpur (Arrah)
6. The Staff Selection Commission Veterinary College, Raja Bazar, Bihar Patna.
7. The Secretary, Staff Selection, Veterinary College, Raja Bazar, Bihar Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Singh
For the Respondent/s : Mr. Smt. Binita Singh (Sc28)

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 03-02-2023 Heard the parties.

2. The petitioners have been appointed in the year 2019 in a selection process which was initiated in 2010.

3. Learned counsel for the petitioners submits that other similarly situated persons were appointed prior to them and their appointment was withheld on doubt of their educational qualifications. Certain writ petitions were filed before this Court whereafter the State Government was directed



to scrutinize the qualification held by similarly placed persons and thereafter the petitioners were offered appointment in the year 2019.

4. Learned counsel submits that the petitioners' appointment should relate back from the year similarly placed others persons were appointed, namely, those who were appointed on 2010.

5. I have considered the submissions.

6. The selection process of 2010 underwent a protracted litigation. Ultimately, the Supreme Court held that out of the total posts, 34540 teachers appointed earlier shall not be disturbed in any manner and further directed the State Government to fill up the remaining 2200 and odd posts. The petitioners' qualification was under doubt and after having verifying their qualifications, they have been offered appointment in 2019.

7. There is no concept of retrospective appointment in service jurisprudence. A person is entitled for appointment from the date he joins service. After having joined in the year 2019 without any demur, the petitioners cannot turn back and claim their appointment from a previous date as the person cannot be allowed to probate and reprobate at the same time. The teachers



appointed earlier have been treated by Supreme Court as a separate class and petitioners cannot claim parity with them.

8. The writ petition is found to be devoid of merit and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Brajesh Kumar/-
Item no.52

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