

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3365 of 2020

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1. Abdul Quaiyum Ansari, S/o Late Md. Mohiuddin Ansari, R/o Village and P.O.- Parsa- Naya Tola Banka, PS- Hanwara, District- Banka at present posted as Assistant teacher Primary School, hanwara, Anchal- mahagama, District- Banka.
 2. Sumant Kumar Sinha, s/o Saryu Prasad, R/o Village- P.O- Sripathar, PS- Dhoriya Anchal- Dhoriya, District- Banka at present posted as Assistant Teacher Primary School, Basbitta, Anchal- Dhoriya, District- Banka.
 3. Mukhtar Ahmad, s/o Md. Salimuddin, R/o village- Murgiyachak, PS- Sanhola, District- Bhagalpur at present posted at Assistant Teacher Upgraded Middle School, Gajichak, Anchal- Dhoriya, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Govt. of Bihar, Patna.
4. The District Education Officer, Banka.
5. The District Programme Officer (Establishment), Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dinu Kumar
For the Respondent/s : Mr. Pramod Kumar Singh, AC to SC-26

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 4 03-11-2023 1. Heard learned counsel for the parties concerned.
2. The only issue involved in this writ application is as to whether the petitioners are entitled to be given Matric Trained Pay Scale with effect from 01.10.2003.
3. Learned counsel for the petitioners submits that the issue is not res integra. He submits that a Single Bench of this Court, in judgment passed in **CWJC No. 2892 of 2013**



(Brajesh Kumar & Ors. v. The State of Bihar & Ors.)

dated 13.05.2015 has held that those candidates who have appeared in the main examination held in the year 2004 and failed in only one or two papers in the 2004 examination and were allowed to appear in the year 2007 as compartmental candidate, their case falls in different class. The court has held that the compartmental examination is part and parcel of the main examination and they are like conjoint twins.

4. The case of the petitioners is that they appeared in the training examination held in the year 2004. The petitioner nos. 1 and 2, failed in one subject, whereas and petitioner no. 3 failed in two subjects in the said examination. The further case of the petitioners is that a compartmental examination was held by the Bihar School Examination Board, Patna in the year 2007, in which they appeared and passed successfully.
5. Learned counsel submits that the Hon' ble Single Bench in Brajesh Kumar (Supra) judgment held that candidates, who sat in the examination in the year 2004, failed in some papers and were allowed to sit as compartmental examinees held in the year 2007, would be treated to have



passed the examination in the first attempt itself and their entitlement to pay-scale will be from 01.10.2003 and not from the date they sat in the examination i.e. 31.07.2007. The judgment rendered by the Single Bench has been upheld by the Division Bench in LPA No. 1870/2015.

6. I have heard learned counsel for the parties.
7. From perusal of the aforesaid Brajesh Kumar (Supra) judgment it transpires that while delivering judgment this Court has categorically mentioned that the decision has been rendered with regard to all such class of persons irrespective of the fact whether they have approached the High Court through the writ application or not, because the State must follow a uniform policy and cannot be seen to be encouraging litigation by compelling individuals to approach the Court for similar reliefs. In other words, the judgment is judgment in rem and not in persona.
8. In view of the aforesaid facts and law as discussed hereinabove, I direct the petitioner to file a detailed representation/claim before the respondent no. 5-District Programme Officer (Establishment), Banka within a period of four weeks. If such a representation is filed, the



same shall be considered by the respondent no. 5 in the light of the judgment rendered by this court in CWJC No. 2892 of 2013 & LPA No. 1870 of 2015 and the representation filed by the petitioner shall be disposed of by a speaking order within a period of six weeks from the date of filing of the representation.

9. It is made clear that if Matric Trained Scale w.e.f. 01.10.2003 is found payable to the petitioners, the consequential benefit arising out of the same shall be paid to the petitioners within a period of three months from the date of disposal of the representation, failing which, the respondent no. 5 i.e. District Programme Officer (Establishment), Banka shall be liable to pay interest at the rate of 6% per annum on the said amount.
10. With the aforesaid observation and direction, this writ application is disposed.

(Anil Kumar Sinha, J)

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