

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5252 of 2020

Vijay Kant Jha Son of Valeshwar Jha, (Chairman Sevapurva Prashikshit Shikshak Sangh), Son of Valeshwar Jha, Resident of Village-Bathnaha, P.O.- Dasaut, P.S.-Hathauri, District-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Principal Secretary, Finance Department, Government of Bihar, Patna.
4. The Director, Primary Education, Government of Bihar, Patna.
5. The Secretary, Primary Education, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Umeshanand Pandit
For the Respondent/s : Mr.Kameshwar Kumar (Gp17)

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 01-07-2024 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for the
following reliefs:

*(i) For issuance of appropriate writ/ writs
order/ orders, direction directions to direct
the respondents for adjustment of the
Teachers of the petitioner's Association who
are possessing teachers trained
qualification in category, which was
bifurcated by notification in Bihar
Panchayat Primary Teacher (Appointment
and Service Condition) Rule 2012
categorizing as the Panchayat Teachers,*



Prakhand Teachers, Nagar Panchayat Teachers, and Nagar Nigam Teachers and determining their promotion as per the Rules provided of the Teachers of the petitioner's Association.

II. For issuance of appropriate writ/writs, order / orders, direction / directions for further direction to the respondent authorities to implement 7th Pay Commission report fixing salary as per with the Primary teachers who are getting more salary than the teachers of the petitioner's association.

III. For issuance of further appropriate writ/writs, order/orders, direction/directions to the respondent authorities to make payment of the differential amount in salary of the Teachers of Trained B.Ed. appointment in between 2006 to 2010 for which they are entitled under the provisions of the Rules framed by the State Government.

IV. For issuance of further appropriate writ/writs, order/ \orders, direction / directions to disposed of the representation in accordance with law filed by the petitioner in the capacity of Chairman on behalf of the members of the Teacher's Association requesting the respondents authorities to implement the scale of salary



as provided under notification No. 1530 dated 11.08.2016 by which the State Government has provided the increased salary to the petitioner also and also make payment of differential amount from the date from which the petitioner are entitled.

V. For issuance of appropriate writ/writs, order/ orders, direction directions to further direct the respondent authorities to treated the physical trained Teachers in the category of Graduate Trained as per the notification of Rules 2012 are as per with B. Ed Trained Teachers and further direct that newly appointed Graduate Trained Teachers may not be declared as Senior to them.

VI. For issuance of appropriate writ/ writs, order/orders, direction/directions for further direction to respondents to treat the Trained B. Ed. Graduate Teachers and Physical Trained Teachers as per for the purpose of scale of pay and also for the purpose of treating them Senior to those appointed late on and getting trained subsequently to the Teachers of the petitioner's association.

VII. For issuance of further appropriate writ/writs, order/orders, direction/direction for granting any other relief or reliefs which deem fit and proper in the facts and



circumstances of the case to protect the valuable rights of the petitioner.

3. Learned counsel for the petitioner submits that the petitioner is the nominated Chairman of Sevapurva Prashikshit Shikshak Sangh, State of Bihar and is duly authorised to ventilate the grievance of the Teachers of the aforesaid Association. The Teachers of the aforesaid Association are graduate/two years trained who were appointed during 2006 to 2010 in different schools of the State of Bihar. He submits that the trained Graduate Teachers, who were appointed in between 2006 to 2010, were treated similarly situated under category 1 to 8. However, after notification in 2012, framing certain Rules describing category of Teachers in two class. The Panchayat Teachers were placed under category 1 to 5 and Trained Graduate Teachers were placed under category 6 to 8 but it is unfortunate that the Trained B.Ed. Teacher were not placed under category 6 to 8 and has remained deprived of their higher scale than those, who were placed under category 1 to 5. The petitioner's Association through the State Chairman has filed an application addressing to Hon'ble the Chief Minister of Bihar on 28.12.2018, requesting to adjust the Teachers of the petitioner's Association in category so that they may get their due scale as provided under the Rules framed. The petitioner



having found no response, again filed a detailed representation before the Principal Secretary, Human Resources Development Department, Government of Bihar requesting to provide the differential of pay structure of the senior appointed Teachers w.e.f. 01.07.2015. He further submits that the petitioner's Association has filed representations before the various authorities but no avail.

4. A counter affidavit has been filed on behalf of respondent no.4 in which it is, inter alia, stated that the petitioner's Association without availing the alternative and efficacious remedy, which was available to him to move before the District Appellate Authority for redressal of his grievance, has directly moved before this Court. It is further stated that the legal position in this regard stands settled. The recruitment of service is regulated by a statutory rule and the service benefits would be admissible within the frame work of that particular Rule itself and not as per the Rule that comes later. The said Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rule, 2006 had been at complete variance with the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rule, 2012.

5. Having heard learned counsel for the parties and



after going through the materials available on record, in my considered view, the members of the petitioner's Association were appointed under the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rule, 2006 and they cannot be granted the benefit of Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rule, 2012, which was issued later on.

6. Accordingly, I find that this writ petition has no merit and is dismissed accordingly.

(Anjani Kumar Sharan, J)

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