

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5001 of 2024**

Binod Kumar Singh Son of Chandradeo Prasad Singh, Resident of Village-Anand Nagar Gobarsahi, P.S.-Sadar Bhagwanpur, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, primary Education, Education Department, Govt. of Bihar, Patna.
4. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
5. The District Education Officer, Muzaffarpur, District-Muzaffarpur.
6. The Programme Officer (Estb.) Muzaffarpur, District-Muzaffarpur.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr. Shashi Bhushan Singh, Advocate  
For the Respondent/s : Mr. Jitendra Kumar , AC to Ex- AAG 11

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH**  
**ORAL JUDGMENT**

**Date : 29-10-2024**

Heard the parties.

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

*(i) For issuance of an appropriate writ in the nature of Certiorari for quashing the letter No. 575 dated 13.02.2018 by which salary difference from 16.03.2013 has been denied on account of promotion to the post of Headmaster mentioning that financial benefit would be paid*



*from date of joining on promoted post, the letter No. 575 dated 13.02.2018 is in teeth of law laid by the Hon'ble Court in CWJC No. 3491 of 2010 order dated 30.8.2012 by which it has held that financial benefit would be given from date of promotion .*

*(ii) For issuance of an appropriate writ in the nature of Mandamus Commanding and directing the respondent to pay the difference of salary from 16.03.2013 to 20.08.2016 on account of promotion to the post of Headmaster with effect from 16.03.2013 with interest, as due to petty cause the respondents have compelled the petitioner to move before the Hon'ble Court for time and again .*

3 . It is submitted on behalf of petitioner that petitioner was appointed on the post of Assistant Teacher on compassionate ground in the matric trained pay scale in the year 1999 and posted at Primary School Pirojpur Sakara . At the time of appointment, this petitioner was post-graduate as he was the regular student of T. P . College Madhepura, in the session 1992-94, and the College is the constituent unit of B. N Mandal University , Madhepura . It is further submitted that the name of petitioner was coming under zone of consideration for promotion in trained graduate pay-scale therefore he was promoted in the pay scale of trained Graduate with effect from



16.09.2011 and the letter to this effect was issued vide Memo no. 801 dated 15.09.2011 . Pursuant to the direction of the respondent no.3, the respondent no.5 issued Memo no. 2567 dated 21.06.2012 by which the petitioner was given promotion with effect from 16.09.2011 and was posted at Upgraded Middle School, Barmatpur Mushahari, Dist- Muzaffarpur from where he was promoted trained graduate pay-scale . Since the petitioner was promoted in Grade -III (trained Graduate Pay-scale) with effect from 16.09.2011 and has post graduate qualification , therefore he was entitled for the promotion to the post of Headmaster, so he also applied for the same with entire relevant document for promotion to the post of Headmaster, but several similarly situated persons have been promoted to the post of headmaster vide Memo no. 1652 dated 04.04.2013 but the name of petitioner was not considered under said circumstances, so in this regard, petitioner filed writ application bearing CWJC No. 23493 of 2013 and the Hon'ble Court after hearing the parties directed to grant promotion to the petitioner on the post of Headmaster from due date with all benefit on 02.08.2016 i. e., Annexure P /6 to the writ petition . Though petitioner was given benefit by promotion but the aforesaid order of the Hon'ble High Court was not complied,



then this petitioner filed contempt application before the Hon'ble Court bearing MJC No. 3737 of 2017 as vide Memo No. 3645 dated 20.08.2016, wherein promotion was given to petitioner but monetary benefit was not given to him. In the contempt application, the State came out with a letter No. 575 dated 13.02.2018 by which claim of the petitioner to grant monetary benefit from due date has been rejected on the ground that Rule 8 and 9 of promotion of Rule 2011 in which it is mentioned that financial benefit would be given from date of joining on promoted post, this proposition of law is not applicable in the present case because the case of the petitioner is that junior and similar situated persons have been granted promotion with effect from 26.03.2013 and as such this petitioner was also promoted on the post of Headmaster with effect from 26.03.2013 but petitioner was not given monetary benefit.

4. Learned counsel for the petitioner further submits that the Director Primary Education had also issued a letter No. 592 dated 10.05.2013 instructing concerned authority to grant financial benefit to the teachers who have not been promoted from due date and similarly/junior to the teachers who have been promoted. Petitioner raised objection



and submitted representation on 22.11.2016 before District Programme Officer, Muzzaffarpur requesting the authority to grant monetary benefit to him from date of promotion i. e ., 26.03.2013 . In a similar circumstances, in CWJC No. 3491 of 2010 (*Meera Chaudhary Vs. The State of Bihar* ) the Hon'ble Court held that financial benefit would be given from date of promotion such order has been passed on 30.08.2012. In a judgment reported in *Awadesh Singh Vs. State of Bihar 2005 (1) PLJR 297*, the Hon'ble Court granted monetary benefit from the date of assuming the charge on the promotion post only in view of Rule 58 of the Bihar Service Code , Rule 74 of the Bihar Finance Rules and the letter of the Finance Department dated 04.04.1985 .

5 . Learned counsel for the petitioner again submits that in view of the aforesaid judgments passed by this Hon'ble High Court, this petitioner is entitled to get all the monetary benefit from the date of promotion .

6. However, learned counsel for the State submits that the claim of petitioner for promotion to the post of headmaster was duly considered and it has been found that under Rule 9 of the promotion rule 2011 , the promotion could be granted only with effect from the date of notification , in as much as



financial benefit of promotion with retrospective effect is not admissible and the claim has already been rejected by this deponent vide letter No. 575 dated 13.12.2018 .

7. Considering the rival submissions of the parties and materials available on record, the issue is no longer res integra , as the same had been considered and decided by this Court in *Awadhesh Singh V. State of Bihar 2005 (1) PLJR 297*. In the aforesaid case , considering the identical issue of promotion having been granted from the retrospective date but monetary benefit having been allowed from the date of assuming the charge on the promotional post only in view of Rule 58 of the Bihar Service Code, Rule 74 of the Bihar Finance Rules and the letter of the Finance Department dated 04.04.1985, this Court has held that the aforesaid provisions, in no way would affect the right of the petitioner for getting the monetary benefit from the date of promotion . Reference in this connection may also be usefully made to the judgment rendered by a Division Bench of this Hon'ble Court in the case of *Dr. Paras Nath Prasad vs State of Bihar*, reported in *[1990(2) PLJR 248]* wherein it has been considered and followed in the aforesaid case and the relevant passage from



the aforesaid decision is reproduced for better appreciation of the matter, in following terms:-

*“21 . Thus the conclusion reached by me on first principle that a Government employee cannot be deprived of monetary benefits in case of promotion with retrospective effect on the ground that such Government Servant did not perform the work of higher post and rule 58 of the Bihar Service Code, Rules 74 of the Bihar Finance Rules and the letter of the Finance Department dated 4.4. 1985 in no way affects that right also finds support from a long time of authority of the Supreme Court and decision of this Court.*

*22. It is unfortunate that principle laid by this Court long ago is not being adhered to by the State Government and public servants are denied their legitimate rights, flooding this Court with uncalled for litigations. The State Government shall be well advised to modify its circular in the light of the decision of the Court aforesaid, so as to avoid any future litigation .”*

8 . In view of the aforesaid facts and circumstances, this writ petition is allowed and the last part of the order contained in letter No. 575 dated 13.02.2018 passed by the District Education Officer, Muzaffarpur i. e., Annexure – 8 to the writ petition is hereby quashed. It is held that petitioner is entitled for the benefit of all monetary benefit from the date he was granted promotion . The difference of salary , after



calculation , shall be paid to the petitioner within three months  
from the date of receipt/production o a copy of this order.

(Prabhat Kumar Singh, J)

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