

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15230 of 2014

1. Lalan Kumar Jha Son of Sri Nitya Nand Jha Resident of Village - Rahatmeena, P.O. - Haldhara Hat, P.S. - Kursakanta, District- Araria.
2. Manish Kumar, Son of Sri Hem Chandra Kumar Resident of Village and P.O. - Kanhai, P.S. - Ghanshyampur, District - Darbhanga, Presently both are posted and working as an Assistant Teachers in Upendra Sanskrit Prathamik Sah Madhya Vidyalaya, Kanhai, P.O. and P.S. - Ghanshyampur, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary cum Commissioner, Education Department, Government of Bihar, Patna.
3. The Special Director In-Charge Sanskrit, Secondary Education, Government of Bihar, Patna.
4. The Bihar Sanskrit Shiksha Board through its Secretary, East Boring Canal Road, Patna.
5. The District Education Officer, Araria.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 16944 of 2014

Vidya Nand Ram Son of Late Guri Ram Resident of Village - Bargaon, P.S.- Mairwa, District - Siwan, Presently working as an Assistant Teachers in Sri RADha Rman Sanskrit Uchch Vidyalaya, Koila Deva Math, Via Hathua, P.S.- Phulwaria, District - Gopalganj

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary cum Commissioner, Education Department Government of Bihar, Patna
3. The Special Director In-charge Sanskrit, Secondary Education, Government of Bihar, Patna
4. The Bihar Sanskrit Shiksha Board through its Secretary, East Boring Canal Road, Patna
5. The District Education Officer, Gopalganj

... .. Respondent/s



Appearance :

(In Civil Writ Jurisdiction Case No. 15230 of 2014)

For the Petitioner/s : Mr. Durga Nand, Advocate
Mr. Purushottam Jha, Advocate
Mr. Vikash Kumar, Advocate
For the Respondent/s : Mr. Sita Ram Yadav, GP 16
Mr. Yatindra Narayan, A.C. to GP 16

(In Civil Writ Jurisdiction Case No. 16944 of 2014)

For the Petitioner/s : Mr. Purushottam Jha
Mr. Vikash Kumar, Advocate
For the Respondent/s : Mr. Ravish Chandra, AC to SC 6
Mr. SS Sundram, Advocate
Mr. Shashank Shekhar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 25-01-2024

Re: CWJC no.15230 of 2014

1. Heard learned counsel for the petitioners and learned counsel for the respondents.

2. The petitioners have filed the instant application for the following reliefs:

“(i) For issuance of a writ in the nature of writ of mandamus, directing and commanding the respondents for grant of Revised Pay Scales and other monetary benefits to the petitioners in terms of the Gazette Notification No. 688 Patna dated 04.09.2013 with effect from the date of Notification as has been made applicable to the teachers and non-teaching staffs of the school in question.

(ii) For issuance of a writ in the nature of writ of mandamus, directing and commanding the respondents to make the aforesaid Notification No. 688 dated 04.09.2013 effective prospectively with effect from the date of its Notification being 04.09.2013 and not retrospectively w.e.f. 15.02.2011 as has been done vide clause (Ja) of the said Notification debarring the petitioners from the benefit of the aforesaid revision of Pay by applying the same retrospectively.



(iii) For issuance of any other consequential writ/order/ direction for which the petitioners are found to be entitled to under the facts and circumstance of the case.”

3. Bereft of unnecessary details, it is submitted by learned counsel for the petitioners that the two petitioners were working as a regular teacher against sanctioned post in non-Government Recognized and Aided Sanskrit Prathamik sah Madhya Vidyalay, Kanhai , P.O and P.S. Ghanshyampur, District Darbhanga.

4. Learned counsel for the petitioner submits that the Division Bench of this Court in the case of Baidyanath Jha versus The State of Bihar and others (LPA no. 43 of 2016) and analogous cases, by its judgment dated 13.8.2019 was pleased to allow the appeal to the extent mentioned therein in the following terms.

“For the discussions above the resolution dated 31.08.2013 in so far as it discriminates the teachers and non-teaching employees of the Non-Government Recognized (Aided) Sanskrit Schools and Madarsas for revision of pay-scales under the 5th and 6th Pay Revisions at parity with the revision allowed to the teaching and non- teaching staff in Government Schools, as well as the fixation of arbitrary date for monetary payment is held discriminatory and not backed by a possible explanation.

For the reasons and discussions above, we are satisfied to record that the appellant-writ petitioners have made out a case for indulgence and consequently we direct the respondent authorities in



the Education Department including the Principal Secretary to accord the benefits of revision of pay-scales under the 5th and 6th Pay Revisions to the teachers and non-teaching staff of the Non-Government Recognized (Aided) Sanskrit Schools and Madarsas in the same manner as allowed to the teaching and non-teaching staff in the Government Schools together with dearness allowance admissible thereon and let the exercise together with the payment of differential amount of salary to which the teaching and non-teaching staffs in these schools are entitled, be made within a period of three months from today.

We, however, bearing note of the Constitution Bench judgment of the Supreme Court rendered in the case of Krisina Kumar Singh (supra) are not persuaded to allow the payment of superannuation benefits to these teaching and non-teaching staffs in these schools because they are employees of the schools which are run by the private managing committees and thus cannot be held government employees for such admissibility. To such extent we refuse the relief of superannuation benefits for the retired employees of the schools for they do not acquire the status of a government employee and the relief that we have allowed is strictly limited to the revision of pay-scales under the 5th and 6th Pay Revisions together with the dearness allowance admissible thereon.

The judgment and order passed by the learned Single Judge dated 12.08.2015 on the writ petitions bearing CWJC No.2663 of 2015, CWJC No.2464 of 2015, CWJC No. 3022 of 2015, CWIC No. 3444 of 2014 and CWJC No.5109 of 2015 stands modified to such extent.

These Letters Patent Appeals are allowed to the extent indicated above.”

5. Learned counsel for the respondents-State of Bihar in reference to the counter affidavit filed on behalf of respondent



nos. 1 to 3 submits that in compliance of the judgment dated 13.8.2019 passed in L.P.A. no. 43 of 2016, as quoted hereinabove the Education Department of Government of Bihar has issued a resolution dated 1.8.2023 granting benefit of 5th and 6th Pay Revision to the employees of Sanskrit schools. It is submitted that the grievances of the petitioners stand redressed.

6. Relevant paragraphs of the counter affidavit are quoted hereinbelow:

“21. That it is humbly and respectfully submitted that in compliance of the Judgment rendered in LPA No. 43/2016 the Education Department, Govt. of Bihar has issued a resolution No. 1204 dated 01.08.2023 by which the benefit of 5th & 6th pay revision has been granted to the employees of Madarsas & Sanskrit Schools.

Photocopy of Resolution No. 1204 dated 01.08.2023 is being annexed herewith and marked as Annexure- R/2 affidavit. to this of Resolution counter.”

22. That from the facts and circumstances set forth above it is evident that the grievance of the petitioners stand redressed and hence this writ application has become infructuous.”

7. Having heard learned counsel for the parties and having perused the material on record, in view of the judgment dated 13.8.2019 passed in LPA no. 43 of 2016 together with the statement made in paragraph nos. 21 and 22 of the counter



affidavit of the State-respondent and the State respondents coming out with the resolution no.1204 dated 1.8.2023, in the opinion of this Court, grievances of the petitioners stand redressed.

8. Accordingly, this writ application stands disposed of in view of the above stand taken by the State Government and its resolution contained in memo no. 1204 dated 1.8.2023 issued under the signature of the Joint Secretary, Education Department, Government of Bihar with the direction to the District Education Officer, Darbhanga (respondent no.5) to pay the consequential benefits to the petitioners within a period of 4 months from the date of receipt/reproduction of a copy of this Order.

9. It is clarified for the sake of the above payment that if any requisition for allotment of fund is made by the District Education Officer, Darbhanga (respondent no.5) the concerned respondent shall make the fund available for compliance of the directions as contained hereinabove.

10. The writ application stands allowed.

Re: CWC no.16944 of 2014

11. The petitioner has filed the instant application for the following reliefs:

“(i) For issuance of a writ in the nature of writ of



mandamus, directing and commanding the respondents for grant of Revised Pay Scales and other monetary benefits to the Petitioner in terms of the Gazette Notification No. 688 Patna dated 04.09.2013 with effect from the date of Notification as has been made applicable to the teachers and non-teaching staffs of the school in question.

(ii) For issuance of a writ in the nature of writ of mandamus, directing and commanding the respondents to make the aforesaid Notification No. 688 dated 04.09.2013 effective prospectively with effect from the date of its Notification being 04.09.2013 and not retrospectively w.e.f. 15.02.2011 as has been done vide clause (Ja) of the said Notification debarring the Petitioner from the benefit of the aforesaid revision of Pay by applying the same retrospectively.

(iii) For issuance of any other consequential writ/order/ direction for which the Petitioner are found to be entitled to under the facts and circumstance of the case.”

12. The petitioner of the instant case was appointed on 22.1.2013 as an assistant teacher in Sri Radha Raman Sanskrit Uchch Vidyalaya, Koila Deva Math, via-Hathua, P.S. Phulwaria, District- Gopalganj. The school is being managed by the Managing Committee as required under the Bihar Sanskrit Shiksha Board Act 1981.

13. Bereft of unnecessary details, it may be stated here that the case of the petitioner of the instant application is similar to the case of the petitioners in CWJC no. 15230 of 2014. Further in both the writ applications counter affidavit sworn by



Special Director, Secondary Education, has been filed.

14. On perusal of the counter affidavit it transpires that the stand of the respondents is that a similar matter being CWJC no.985 of 2015 (Imran Alam & Anr. versus the State of Bihar and others) was disposed by order dated 27.3.2019. The respondents preferred a review application being Civil Review no. 295 of 2019 which was dismissed for non prosecution on 28.3.2023. A restoration application being MJC no. 2022 of 2023 has been preferred for restoration of the review application and the same is pending. The prayer of the respondents is that the instant application be kept in abeyance till disposal of the above case.

15. The facts of the two applications ie CWJC no.16944 of 2014 and CWJC no.15230 of 2014 being similar as also counter affidavit on behalf of respondents having sworn by this same Special Director, Education Department, Bihar, this Court is surprised at the variance in stand taken in the two counter affidavits.

16. In view of the judgment of the Court in the case of Baidyanath Jha Versus the State of Bihar and analogous cases (judgment dated 13.8.2019 in LPA no.48 of 2016 and analogous cases), which is quoted here in above as also the resolution



dated 1.8.2023 of the Education Department, Bihar, this application is also allowed in similar terms as the above CWJC no. 15230 of 2014 (Lalan Kumar Jha and others versus State of Bihar and others).

(Partha Sarthy, J)

Bibhash

AFR/NAFR	
CAV DATE	
Uploading Date	29.01.2024
Transmission Date	

