

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20675 of 2014

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Kundan Kumar Vatsa, son of Chandeshwar Prasad Sharma, resident of Village-Taregna, P.S. Masaurhi, District-Patna, Assistant teacher in Baldeo Sanskrit High School Masaurhi, Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Bihar, Patna.
2. The Special Director, Secondary Education, Bihar, Patna.
3. The Bihar Sanskrit Education Board, Boring Canal Road, Patna through its Secretary.
4. The Chairman, Bihar Sanskrit Education Board, Boring Canal Road, Patna.
5. The District Education officer, Patna
6. The District Programme Officer, Patna.
7. The Secretary of the Managing Committee of Baldeo Sanskrit High School, Masaurhi, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binod Kumar, Advocate
For the State	:	Mr. Naman Nayak, AC to AAG-13
For Sanskrit Shiksha Board	:	Mr. S.S Sundaram, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

6 30-01-2024 1. Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The petitioner has filed the instant application for the following relief(s):-

“1. (i) For quashing the part of the notification no.688 dated 04.09.2013 i.e. Clause 4(F), Clause 5(Ja) and Clause 6 of the said notification/circular by which it has been decided that the Aid/grant for the teaching and non-teaching staff of non-government Aided



Sanskrit Schools will be given only on the basis of fixed salary (as Niyojit Teacher) who have been appointed after 15.02.2011 even though after following due procedure on the then pay scales and it has further been held that all the posts which has become vacant due to retirement of teaching and non-teaching staffs of the above said school will automatically convert into the post for which only fixed salary (as Niyojit Teacher) shall be made though all the appointment including the appointment of the petitioners was made against the vacant post which was having a fixed pay scale as will be apparent from the advertisement published in newspaper as well as their appointment letter.

(ii) For quashing the order contained in memo no.1689 dated 24.04.2014 issued by the Secretary, Bihar Sanskrit Education Board, Patna to the Managing Committee of the above said school by which it has been directed that all the appointment of teaching and non-teaching staffs made after 15.02.2011 up to 31.08.2013 shall be treated as converted automatically into the post of fixed salary (as Niyojit Teacher) and payment shall be made only after getting the concurrence of the department and all the appointments (including the appointment of petitioners) will be treated as appointment made on the basis of fixed salary and not on the basis of pay scale and the managing committee has been directed to prepare a list of such staffs and to get approval for payment of such staffs from the government through the District Education Officer.

(iii) For a direction to the respondent authorities to fix



the salary of the petitioners in the revised scale as per 6th pay revision. Similar to others government schools and to pay the salary and all other consequential benefits to the petitioners.

(iv) For any other relief(s) for which petitioners may found entitled in accordance with law.”

3. The case of the petitioner is that he was appointed as an Assistant Teacher in Baldeo Sanskrit High School Masaurhi, District- Patna on 27.7.2012 and his appointment was approved by the Bihar Sanskrit Education Board, Patna on 3.10.2012. It is contended by learned counsel for the petitioner that with the respondents coming out with notification no.688 dated 4.9.2013 whereby as per Clause 5(ja) teachers appointed after 15.2.2011 would not be getting salary but fixed pay, would adversely impact the petitioner and hence the writ application.

4. It may be stated here that the notification dated 31.8.2013 by which the petitioner is affected was the subject matter in CWJC no.985 of 2015 (Imran Alam & Anr vs. the State of Bihar & Ors). A Division Bench of this Court vide order dated 27.3.2019 was pleased to allow the said writ application holding that the impugned resolution dated 31.8.2013 cannot apply in case of those who have been appointed prior to 31.8.2013.

5. Learned counsel appearing for the State of Bihar



submits that a Civil Review application was preferred against the judgment dated 27.3.2019 passed in CWJC no.985 of 2015, however the same was dismissed for non-prosecution. A restoration application has been filed and the same is still pending.

6. The petitioner having been appointed in the year 2012, in view of the judgment of Division Bench of this Court in the case of Imran Alam (supra), nothing remains in the instant writ application. As held therein the resolution dated 31.8.2013 would not be applicable in the case of the petitioner.

7. In case the petitioner has been paid fixed pay as contemplated in the resolution dated 31.8.2013, the consequential difference of salary shall be paid to the petitioner by the respondent concerned within a period of four months from the date of receipt of a copy of this order.

8. The writ application stands allowed.

(Partha Sarthy, J)

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