

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7378 of 2014

Uchit Narayan Yadav Son of Late Dunnilal Yadav resident of Village Machhi,
Police Station- Baheri, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director, Bihar Secondary Education, Patna, Bihar.
3. The Deputy Director of Education, Bihar Secondary Education, Patna, Bihar.
4. The Regional Deputy Director of Education, Darbhanga Division, Darbhanga
5. The District Education Officer, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shankar Kumar Thakur, Advocate

For the Respondent/s : Mr. U.P.Singh, A.C. to S.C.-4

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

8 29-01-2024 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):

“(i) *For quashing the order contained in memo no. Ms. Shi./Le.-03/22/10-499 dated 23.07.2013 passed by the respondent no.2 whereby and where under the claim of petitioner for grant of trained graduate pay scale has been rejected on the ground that the petitioner had acquired degree of 'Sahityalankar' in the year 1985 without taking permission from the department nor the petitioner claimed for the said benefit at relevant point of time, and*

(ii) *For direction to the respondent concerned to grant the graduate trained pay scale of Rs.850-1360 to the petitioner with*



effect from 31.03.1986 because he possesses the degree of 'Sahityalankar' from Hindi Vidyapeeth, Deoghar issued in the year 1986 which is equivalent to the degree of B.A. and the said degree was approved by the State Government, and

(iii) For direction to the respondents to pay the arrears of salary of graduate pay scale falling due with effect from 31.03.1986 with penal interest and,

Further, prays for issuance of any other appropriate writ/writs, order/orders, direction/ directions and relief/reliefs which he is entitled to in the facts and circumstances of the case.”

3. It is the case of the petitioner that he was appointed as an Assistant Teacher on 8.1.1964 in Sahdeo High School, Bachhi, Ujjaina by the Managing Committee of the school. It was a private school and the petitioner having given his joining started working therein. In the year 1969, the school was taken over by the Government. It is the case of the petitioner that he was granted I.A. trained pay scale w.e.f. 1981 and subsequently in the year 1985, he appeared and passed the examination of ‘Sahityalankar’ conducted by the Hindi Vidyapeeth, Deoghar. The result thereof was published on 31.3.1986. Referring to the order dated 11.1.1991 issued by the Personnel and Administrative Reforms Department, Government of Bihar, as contained in Annexure-9 to the writ application, learned counsel for the petitioner submits that it is not in dispute that the degree



of 'Sahityalankar' from Hindi Vidyapeeth, Deoghar is equivalent to B.A. As such, he should have been granted B.A. trained pay scale. In the meantime, the petitioner retired on 31.1.1998. Not having been granted B.A. trained pay scale, the petitioner moved this Court in CWJC no.13186 of 2011 which was disposed of by order dated 13.3.2012 (Annexure-10) with a direction to the Director, Secondary Education, Government of Bihar to take a decision on the issue and to communicate the same to the petitioner. Learned counsel for the petitioner submits that consequent thereto, by order dated 23.7.2013 (Annexure-13), the prayer of the petitioner in his representation was rejected against which the instant application has been filed.

4. Learned counsel for the respondents submits that though the petitioner claims to have obtained his degree of 'Sahityalankar' from Hindi Vidyapeeth, Deoghar as far back as in the year 1986 and retired in the year 1998, he moved this Court only in the year 2011 ie after a delay of about 13 years. Further, from the order impugned, it would be evident that the petitioner had not taken any permission for pursuing his degree of 'Sahityalankar' and even during the period of his service in the year 1995, on being transferred, the petitioner opted to continue showing himself to be a junior teacher. As such, the



representation of the petitioner was rightly rejected. There is no illegality in the order as contained in Annexure-13, there is no merit in the writ application and the same be dismissed.

5. Having heard learned counsel for the parties and having perused the material on record, this Court finds that it is not in dispute that the petitioner obtained his 'Sahityalankar' degree in the year 1986 from Hindi Vidyapeeth, Deoghar. It is also not in dispute from the order dated 11.1.1991 of the Personnel and Administrative Reforms Department, Government of Bihar (Annexure-9) that the 'Sahityalankar' degree obtained from Hindi Vidyapeeth, Deoghar is equivalent to B.A.

6. So far as the contention of learned counsel for the respondents with respect to the delay by the petitioner in moving his application for the relief prayed for is concerned, it may be noted that though the petitioner moved this Court by way of writ application in the year 2011, the same was not dismissed on the ground of delay instead by order dated 13.3.2012, this Court directed the Director, Secondary Education, Government of Bihar to decide the representation of the petitioner within the time fixed. It is also not in dispute that the State of Bihar did not prefer any appeal against the said



order dated 13.3.2012. It is pursuant to the directions contained therein that the order impugned dated 23.7.2013 has been passed rejecting the petitioner's application. Thus, this Court finds that there is no merit in the submissions made on behalf of the respondents with respect to delay by the petitioner in moving this Court for the reliefs prayed for.

7. The other ground for rejection of the petitioner's representation as evident from the order impugned is that the petitioner had not obtained permission for pursuing his 'Sahityalankar' degree, it is the categorical case of the petitioner as stated in paragraph nos.19 to 21 of the writ application that the petitioner pursued his 'Sahityalankar' through correspondence course. The examinations of the same were held in winter vacation and there was no requirement for the petitioner to obtain leave to pursue the said course or sit in the examination during vacation.

8. At this stage, two further contentions raised by the petitioner may also be stated. Firstly, it has been submitted by learned counsel for the petitioner that another similarly situated person namely Budhinath Yadav has also been granted graduate pay scale on the basis of the same 'Sahityalankar' degree. Further, learned counsel also refers to the letter dated 9.12.2009



(Annexure-8) written by the District Education Officer, Darbhanga to the Director (Secondary Education) stating therein that the petitioner who has retired having obtained his 'Sahityalankar' degree, order be passed for grant of graduate trained scale to him. There is no response on behalf of the respondents to the categorical assertions made on behalf of the petitioner as stated above.

9. In view of the facts and circumstances stated herein above, the Court finds merit in the writ application. The order contained in Memo no.499 dated 23.7.2013 (Annexure-13) issued under the signature of Director, Secondary Education, Bihar, Patna is not sustainable and is hereby set aside.

10. The writ application is allowed.

11. The respondents, specially the Director, Bihar Secondary Education, Patna, Bihar (respondent no.2), are directed to grant the graduate trained scale to the petitioner from the date the petitioner obtained his 'Sahityalankar' degree ie 31.3.1986 and to pay the consequential benefits thereof within a period of four months from the date of receipt/production of a copy of this order.

(Partha Sarthy, J)

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