

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13834 of 2015

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Braj Kishore Son of Late Sheo Shankar Prasad Singh, In - Charge Head Master, Rajkiya Madhya Vidyalaya, Hakam, Resident of village and P.O. Hakam, P.S. Mahammadpur, District - Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna
3. The Collector, Gopalganj
4. The Regional Deputy Director of Education, Saran Division, Chapra
5. The District Education officer, Gopalganj
6. The District Programme Officer (Establishment), Gopalganj

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nagendra Rai, Advocate Mr. Navin Nikunj, Advocate Mr. Koshalendra Rai, Advocate
For the Respondent/s	:	Mr. Jitendra Kumar, A.C. to AAG-11

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 06-02-2024

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

2. The petitioner has filed the instant application for directing the respondents to grant to the petitioner the graduate trained scale w.e.f. 10.11.1995 and to pay the arrears of difference of salary as a result thereof along with interest thereon.

3. The case of the petitioner in brief is that he was appointed as a Physical Teacher (Trained) in the year 1985



being a science graduate and also holding Diploma in Physical Education (D.P.Ed) at the time of his appointment. The petitioner subsequently acquired his B.Ed. degree from the Bihar University, Muzaffarpur in the examination held in the month of August, 1994 and marksheet of which has been brought on record as Annexure-1. Having become entitled for promotion in the graduate trained scale from 10.11.1995, the petitioner filed representations, but got no relief. It is submitted by learned counsel appearing for the petitioner that some persons including one Lakhandeo Singh were granted the graduate trained scale w.e.f. 23.11.1995 vide order contained in Annexure-2 to the writ application. The case of the petitioner stands on a similar footing to him. As such he also be granted the graduate trained scale w.e.f. 23.11.1995.

4. In response, learned counsel for the State referring to the counter affidavit filed on behalf of District Programme Officer (Establishment), Gopalganj submits that the petitioner was appointed as a Physical Trained Teacher in the year 1985 and did his B.Ed. in the year 1995. He has rightly been granted the graduate trained scale w.e.f. 1.7.2013.

5. Having heard learned counsel for the parties and having perused the material on record, this Court finds that the



facts not in dispute are that on being appointed as a Physical Teacher (trained), the petitioner joined service on 17.7.1985 and did his B.Ed. degree in the year 1995. Thus, the petitioner having been become entitled for grant of graduate trained scale, filed representations before the respondents-authorities, however, not getting any response thereto has filed the instant writ application. It further transpires that similarly situated person namely Lakhandeo Singh has been granted the graduate trained scale w.e.f. 23.11.1995 vide order dated 18.6.1996 contained in Annexure-2.

6. So far as the counter affidavit filed by the respondents is concerned, the only statement made therein is that the order granting graduate trained scale to the petitioner w.e.f. 1.7.2013 is correct, there is no merit in the writ application and the same be dismissed.

7. So far as grant of graduate trained scale to the similarly situated persons including Lakhandeo Singh vide order contained in Annexure-2 is concerned, it is stated in the counter affidavit that the list was prepared pursuant to the relevant rules and approved by the District Education Establishment Committee on 10.11.1995. Though the name of the petitioner was not included in the list, he did not raise any objection to the



same at the relevant time.

8. Having perused the contents of the affidavits filed and the submissions made on behalf of the respondents, the Court is of the opinion that there is no answer whatsoever on behalf of the respondents to the contentions raised by learned counsel for the petitioner.

9. In view of the specific stand of the petitioner that he has done his B.Ed. in the year 1995 and similarly situated person namely Lakhandeo Singh having been granted the graduate trained scale w.e.f. 23.11.1995 not having been answered by the respondents in their counter affidavit, in the opinion of the Court, the writ application is fit to be allowed and is so allowed.

10. The respondents, specially the Regional Deputy Director of Education, Saran Division, Chapra (respondent no.4), the District Education Officer, Gopalganj (respondent no.5) and the District Programme Officer (Establishment), Gopalganj (respondent no.6) are directed to grant graduate trained scale to the petitioner w.e.f. 23.11.1995 ie the date similarly situated persons as the petitioner were granted the graduate trained scale by order as contained in Annexure-2 to the writ application, to calculate the arrears of difference of



salary as a result of the said grant and to pay the consequential benefits within a period of four months from the date of receipt/production of a copy of this order.

11. The writ application stands allowed.

(Partha Sarthy, J)

Saurabh/-

AFR/NAFR	
CAV DATE	
Uploading Date	08.02.2024
Transmission Date	

