

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7693 of 2023

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1. Jitan Chaudhary S/o Jagdish Choudhary, R/o Village- Horilganj, Post and P.S. and District- Jahanabad, Presently posted as Assistant Teacher at M.S. Makhdumpur, District- Jahanabad.
 2. Arvind Kumar S/o Nunu Singh, R/o Village- Morhe, Post and P.S.- Fatehpur, District- Gaya, Presently posted as Assistant Teacher at U.M.S. Kalanaur, Block- Makhdumpur, District- Jahanabad.
 3. Ranjan Kumar S/o Basudeo Prasad, R/o- Maya Bigha, Block- Makhdumpur, Post- Solhanda, P.S.- Makhdumpur, District- Jahanabad, Presently posted as Assistant Teacher at U.M.S. Kharauna, Block- Makhdumpur, District- Jahanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director Primary Education, Education Department, Government of Bihar, Patna.
3. The Regional Deputy Director of Education, Gaya Division, Gaya.
4. The District Education Officer, District- Jahanabad.
5. The District Program Officer (Establishment), District- Jahanabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Avanindra Kumar Jha
For the Respondent/s : Mr.Madanjeet Kumar (Gp20)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 21-11-2024

Re. I.A.No. 1 of 2024

The interlocutory application has been filed for substitution of Shila Kumari w/o Ranjan Kumar, as petitioner no. 3 in place of Ranjan Kumar, since during pendency of the writ petition i.e. on 31.05.2024, the petitioner no. 3 namely Ranjan Kumar died.



2. In view of aforesaid fact, I.A. No. 1 of 2024 is allowed.

3. Let Shila Kumari w/o Ranjan Kumar be substituted in place of Ranjan Kumar, as petitioner no. 3, in the writ petition.

Re. C.W.J.C. No. 7693 of 2023

4. Heard learned counsel for the petitioners and learned counsel for the respondent / State.

5. This writ petition has been filed for following relief:-

“i) To hold and declare that, the claim of the petitioners for extending the Notional benefit of Matric Trained Scale of Pay, for the purpose of protection of seniority vis a vis, their batch mates & counterparts & Juniors, is squarely covered by the ratio of the Judgment & Order dated 10.12.2018 of this Hon'ble Court in LPA No. 1409 of 2017 & Order dated 27.05.2019 in CWJC No. 3727 of 2015.

ii.) For issuance of an Order/Direction or a Writ in nature of Certiorari for quashing the Memo No. 1068 dated 05.09.2020 (Annexure-2), where by and where under the benefit of shifting back of date of grant of Matric Trained Scale of Pay has granted by Memo No. 1012 dated 28.08.2020 (Ann-1) has been withdrawn by the Respondent No. 4 & 5.

iii.) For issuance of an Order / Direction or a Writ in nature of Mandamus. commanding the Respondents concern to restore all the benefits of Memo No. 1012 dated 28.08.2020 (Annexure 1) to the Petitioners, Le., Matric Trained Scale of Pay to the Petitioners either from 01.10.2003 or from the date on which the petitioners have completed three years of their individual services (at least on Notional Basis), so that the Seniority of the petitioners should not be adversely affected.



iv.) For issuance of an Order/Direction or a Writ in nature of Mandamus. commanding the Respondents concerned to direct the respondents concerned to extend / make payment of all other consequential benefits arising out of the Annexure -1, including promotion and pecuniary benefits.

v.) For grant of any other relief / relieves to which the Petitioners may be entitled to in the eye of law in the given facts & circumstances of the present case.”

6. Learned counsel for the petitioners submits that petitioners are (untrained appointed Assistant Teachers) appointed under 1991 Appointment Rules. Petitioner no. 1 was appointed through BPSC, whereas rest petitioners have been appointed on compassionate ground. From perusal of tabular chart, given in paragraph – 4 of the petition, it is evident that initially, the benefit of Matric Trained Scale of Pay was extended to the petitioners on the basis of date of result of the in-service training examination, which are 04.02.2008, 20.06.2012, and 31.01.2011 respectively, but from perusal of order, contained in Memo No. 1012 dated 28.08.2020 (mentioned in the aforesaid table), it transpires that the date of extending the benefit of matric trained scale was shifted back for twenty six (26) persons including these petitioners. Upon careful consideration, it transpires that in each case, the revised / shifted date is either 01.10.2003 or from the date the person concerned has completed the three years of service. Thus, by



issuance of Annexure -1, the long overdue and legitimate demand was fulfilled, and a right has been created in favour of the petitioners. However, subsequently the respondents concerned of the Education Department in the district of Jehanabad, without giving any opportunity to defend the right created by Annexure - 1, withdrew the benefit of shifting back of date of grant of matric trained scale of pay, vide order dated 05.09.2020 contained in Memo No. 1068 (Annexure - 2). Learned counsel for the petitioners submits that the aforesaid benefit has been withdrawn by the respondent authority on the ground that petitioner no. 1 & 2 and husband of petitioner no. 3 have passed the said examination on 2nd or 3rd attempt.

7. Lastly, learned counsel for the petitioners submits that the issue, involved in the present writ petition, has already been decided by this Court, vide order dated 10.12.2018 passed by a Division Bench in L.P.A. No. 1409 of 2017 (Annexure – 4 to the writ petition), order dated 27.05.2019 passed by a Single Bench in C.W.J.C. No. 3727 of 2015 (Annexure – 5 to the writ petition) and order/judgment dated 31.07.2018 passed by a Single Bench in C.W.J.C. No. 13734 of 2012 (Annexure – 6 to the writ petition).



8. Learned counsel for the respondent/State does not dispute the contention raised on behalf of petitioners that the issue raised by the petitioners has already been set at rest by this Court.

9. In view of the above, the present writ petition is disposed of with a direction to the concerned respondents to work out the entitlement of the petitioners for grant of trained scale after three years from the date of their appointment or from 2003 whichever is later as there is lapse on the part of the respondents in not sending the petitioners for in-service training earlier. The entire exercise must be completed within a maximum period of four months from the date of receipt/production of copy of this order.

10. In the light of above observation, the Annexure – 2 to the petition i.e. Memo No. 1068 dated 05.09.2020 is, hereby, quashed.

11. With the aforesaid observation and direction, the writ petition stands disposed of.

(Prabhat Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.11.2024
Transmission Date	N/A

