

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2783 of 2016

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Kumari Sabnam W/o Sri Ramanuj Roy, Resident of village P.O. P.S.- Dahiya,
District- Begusarai

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director Secondary Education, Government of Bihar, Budh Marg, Patna
3. The Regional Deputy Director of Education, Munger
4. The District Education Officer, Begusarai
5. The Treasury Officer, Begusarai
6. The Accountant General, Bihar, Beer Chand Patel Path, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Singh
	:	Mr. Gyanendra Kumar Diwakar
For the Respondent/s	:	Mr. S.A. Alam- Sc3
For the State	:	Mr. Sitaram Yadav (Gp16)
	:	Mr. Yatindra Narayan (Ac to Gp16)
For the Accountant General	:	Mr. Arun Kumar Arun

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 28-03-2024 1. Heard the parties.
2. The petitioner was appointed in the Project School as Assistant Teacher on 05.10.1987. The school was taken over by the Government in the year 1989. The petitioner prays for a direction to the respondents to pay arrears of salary in the trained scale with effect from 01.01.1989 to 24.06.2008. Consequently, the petitioner has prayed for quashing of the office order contained in Memo No. 125 dated 13.04.2015 insofar as it relates to the petitioner



recognizing her services with effect from 25.01.2000 instead of 01.01.1989.

3. Mr. Rajeev Kumar Singh, learned counsel appearing for the petitioner argued that the petitioner passed BA in the year 1983 and subsequently, mastered her MA in 1988. She also completed senior teacher training course/Diploma in Education in second class from All India Correspondence Coaching Society, Calcutta, in 1993 i.e., prior to the coming into force the National Council of Training Examination, which came in 1995.
4. Petitioner was appointed on 05.10.1987 as an Assistant Teacher in Project High School, Badalpura, Mathani, in the District of Begusarai and started discharging her duties to the satisfaction of all concerned. Though the petitioner was having qualification of trained teacher, yet she was considered as untrained teacher. On 24.06.2008, the respondent came out with an office order contained in Memo No. 419 whereby the services of the petitioner was treated as untrained teacher and the petitioner was directed to acquire the training within a period of three years. Petitioner filed writ petition, challenging the aforesaid order dated 24.06.2008 in C.W.J.C. No. 8481 of



2010 for a direction to the respondents to recognize the services of the petitioner as trained teacher and not as untrained teacher. This Court *vide* order, dated 02.02.2011, dismissed the aforesaid writ petition on the ground that diploma degree, granted by the Institution of the petitioner, was not a valid piece of educational qualification equivalent to regular B.Ed. Degree. L.P.A No. 938 of 2011 was filed by the petitioner against the order dated 02.02.2011 passed by this Court in C.W.J.C. No. 8481 of 2010 and the same was also dismissed by a Division Bench of this Court *vide* order, dated 29.06.2011. Being aggrieved, the petitioner filed Civil Appeal No. 308 of 2013 before the Hon'ble Supreme Court. The aforesaid appeal was disposed on 14.01.2013 holding that:-

“From the documents produced before this Court, it is not possible to hold that the appellant had received teachers training from an Institution recognized by the State of Bihar and we do not consider it necessary to decide a question relating to her eligibility to be appointed as a regular teacher. However, keeping in view the fact that the appellant has served as a teacher for almost 25 years, we feel that ends of justice would be served by



directing the respondents to continue her in service without insisting on production of a fresh certificate of teacher training from a recognized institution. Ordered accordingly.”

5. Accordingly, the argument of learned counsel for the petitioner is that the issue regarding validity of the training certificate of the petitioner has come to rest by virtue of the judgment of the Hon'ble Supreme Court inter parties in which the Hon'ble Apex Court has categorically directed the respondents to allow the petitioner to continue in service without insisting on production of a fresh certificate of teachers training from a recognized institution.
6. By the impugned order annexed at Annexure 1 dated 13.04.2015, the services of the petitioner has been recognized as trained teacher with effect from 25.01.2000. No valid reason has been given by the respondents in the impugned letter for recognizing the petitioner's services with effect from 25.01.2000 and that too as untrained teacher whereas the Supreme Court in the civil appeal has decided that the respondent/State shall not insist upon the petitioner to bring a fresh training certificate from a recognized institution keeping in view



the length of service of 25 years of the petitioner.

7. Learned counsel appearing for the petitioner, relying upon the judgment of Hon'ble Supreme Court reported in 2006 Vol. 2 SCC 545, submits that pursuant to the direction of the Hon'ble Supreme Court, three men committee was constituted for taking over of the Project School and recognition of the teaching and non-teaching employees. On the basis of report of the committee, the school of the petitioner was taken over with effect from 01.01.1989 and four posts of Assistant Teacher were sanctioned on 04.02.1989 and another four posts of Assistant Teachers were sanctioned in the School in question on 25.01.2000.
8. On the other hand, learned counsel for the State argued that the institute of the petitioner from where the petitioner has completed her training course and obtained Senior Teachers Training Course, Diploma in Education is not a recognized institution by the State of Bihar. List of suspicious institutions has been attached with the counter affidavit at Page 16 containing the name of the petitioner's institution at Serial No. 13.
9. Since the training certificate of the petitioner was not valid, as such, the services of the petitioner has been



recognized with effect from 25.01.2000 as an untrained teacher.

10. I have heard learned counsel for the parties and have gone through the materials available on record. From perusal of the order passed in the writ petition filed by the petitioner bearing CWJC No. 8481 of 2010, the issue which was decided was that the institute from where the petitioner has completed her training course was not a valid piece of educational certificate for appointment as trained teacher. The matter travelled upto the Supreme Court. The Supreme Court, in its order dated 14.01.2013, has held that keeping in view the fact that the petitioner has served as a teacher for almost 25 years, the ends of justice will be served by directing the respondents to continue the petitioner in service without insisting on production of a fresh certificate of teachers training from a recognized institution. The Supreme Court also observed that “we do not consider it necessary to decide the question relating to the eligibility of the petitioner to be appointed as a regular teacher”. The petitioner was removed from the service on the ground that training certificate produced by her was not from a recognized institution. The Supreme Court has



held inter parties that the respondents shall not insist on production of a fresh certificate of teachers training by the petitioner from a recognized institution. Meaning thereby the Supreme Court allowed the continuation of the petitioner as a trained teacher from the date of her appointment on the basis of the teachers training certificate produced by the petitioner from All India Correspondence Coaching Society, Calcutta, in 1993.

11. In view of the specific direction of the Supreme Court, regarding continuance of the petitioner in service without insisting on production of a fresh certificate of teachers training from recognized institution, the action of the respondent/authorities recognizing the services of the petitioner with effect from 25.01.2000 as untrained teacher is arbitrary irrational and violative of the direction of the Hon'ble Supreme Court. It is not disputed that Project School in question was taken over by the Government with effect from 01.01.1989. As such, in my opinion, the petitioner is entitled to be recognized as regular trained teacher with effect from 01.01.1989. Accordingly, Annexure 1 is set aside to the extent it relates to the petitioner and the respondent/authorities are



directed to recognize the services of the petitioner as a trained teacher with effect from 01.01.1989 and to pay the arrears of salary in installments for the period 01.01.1989 to 24.06.2008 in accordance with law.

12.The present writ application stands disposed with the aforesaid directions.

(Anil Kumar Sinha, J)

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