

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14009 of 2015

1. Basant Ram and Anr S/o- Sri Parichhan Ram, R/o vill- Rasalpur, P.S.- Jandaha, Distt- Vaishali
2. Baliram Chaudhary, S/o- Sri Ram Lakhan Chaudhary, R/o Vill.- Chhoto Marai, P.S.- Hajipur, Distt- Vaishali

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director Primary Education, Education Department, State of Bihar, New Secretariat Patna. null null
3. The District Magistrate, Vaishali, Hajipur
4. The District Education Officer, Vaishali, Hajipur
5. The District Program Officer Establishment Vaishali at Hajipur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar
For the Respondent/s : Mr. Dhurjati Kr Prasad

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 8 29-03-2024 1. Heard the parties.
2. The petitioners have challenged the order dated 09.11.2012 bearing Memo No. 6922 passed by the District Education Officer, Vaishali, whereby the claim of the petitioners for grant of B.A. trained scale has been rejected on the ground that petitioners have obtained the degree of Sahityaalankar from the Hindi Vidyapeeth which is not a valid degree equivalent to the graduation.
3. The facts are not in dispute. The petitioners have passed Sahityaalankar course from Hindi Vidyapeeth. Petitioner No. 1 was granted Sahityaalankar certificate on 06.12.1985 and petitioner No. 2 was granted Sahityaalankar certificate on 17.03.1987.



4. Learned counsel for the petitioners argued that the question regarding grant of B.A. trained scale to the teachers on the strength of degree of Sahityaalankar from Deoghar Hindi Vidyapeeth was considered by a Division Bench of this Court in C.W.J.C. No. 5129 of 2009 and analogous cases dated 18.07.2019. In paragraph 17, the Division Bench has come to the following conclusion which is being quoted hereinbelow:-

17. We may now proceed to consider the claim set forth in C.W.J.C. No. 16183 of 2012 that was referred to the Division Bench by a learned Single Judge as it raised the same issue and L.P.A. No. 894 of 2016. In these two matters the claim of the writ-petitioners and the appellant respectively are with regard to promotional benefits in the higher scale of pay after having served for 8 years as an Assistant Teacher. They were denied promotional pay-scale only on the ground that they did not possess the minimum eligibility qualification as prescribed and were claiming benefits on the strength of the degree of Sahityalankar from Deoghar Hindi Vidyapeeth. In view of what has been concluded by us hereinabove, the petitioner of C.W.J.C. No. 16183 of 2012 and the appellant of L.P.A. No. 894 of 2016 are both entitled to the benefits of promotion and the same cannot be



denied merely on the ground that they were possessed of an equivalent degree as referred to hereinabove. It is undisputed that these two are also in possession of the degree of Sahityalankar having been obtained prior to the year 2008. Accordingly, C.W.J.C. No. 16183 of 2012 and L.P.A. No. 894 of 2016 are allowed. The impugned judgment of the learned Single Judge dated 28.03.2016 is set aside. Since both the candidates have prayed for a mandamus, we accordingly direct the competent authority to pass an appropriate order in the light of above within three weeks from the date of presentation of the certified copy of the order served on them with effect from the date they were entitled for such benefit together with all consequential benefits.

5. On the other hand, learned counsel for the respondent/State relies upon a Division Bench judgment of this Court in L.P.A. No. 679 of 2016 and analogous cases dated 27.10.2016 and submits that Sahityaalankar qualification cannot be treated to be the qualification equivalent to B.A. degree.
6. Learned counsel for the petitioners in reply submits that the judgment relied upon by the respondent is prior in time to the judgment relied upon by the petitioners inasmuch as the judgment on the similar issue was



rendered by this Court relied upon by the petitioners on 18.07.2019 whereas the judgment relied upon by the respondent is of the year 2016 i.e., 27.10.2016, accordingly, the submission is latest judgment shall prevail and the latest judgment of Division Bench is in favour of the petitioners.

7. I have heard learned counsel for the parties and have considered the submissions advanced by the respective counsels. A Full Bench of this Court also decided the similar issue in C.W.J.C. No. 11255 of 2016 and analogous cases dated 22.08.2019 and in paragraph 46 of the same, the Full Bench has held as follows which is being quoted hereinbelow:-

46. In terms of the notification of the General Administration Department as contained in Memo No. 541 dated 11th January, 1991 the Sahityaalankar certificate had got equivalence to the graduation at least prior to 25.08.2008, therefore, those writ petitioners who obtained their Sahityalankar degree from Hindi Vidyapeeth, Deoghar prior to 25.08.2008 would come within the framework of the notification dated 11th January, 1991 and shall be entitled for consideration for promotion to B.A. (Trained) Scale. By virtue of the notification dated



08.04.2016, the promotions granted between 07.05.2012 and 08.04.2016 have been saved. Further by notification dated 17.04.2017 now even the degree obtained prior to 07.05.2012 and the appointment/promotion granted between 07.05.2012 and 08.04.2016 have been saved. In these circumstances the petitioners no. 4, 7 and 15 shall also be entitled for the benefits because in both cases i.e. notification dated 08.04.2016 and notification dated 17.04.2017 the State respondents cannot contend that while the promotions granted to the persons junior to the petitioners in the gradation list between 07.05.2012 and 08.04.2016 shall be saved, the petitioners would not be entitled for the same. This would be discriminatory because once equivalence granted to Sahityaalankar degree obtained from Hindi Vidyapeeth, Deoghar prior to 07.05.2012 is saved it will save the petitioners who have their Sahityaalankar degree obtained prior to 07.05.2012. They would be entitled to maintain their position in the seniority list and in case juniors to them have been granted promotion in terms of B.A. (Trained) Scale, these petitioners shall also be entitled for the same from the date their juniors have received the benefit.

8. Since the petitioners have obtained the Sahityaalankar degree prior to 2008, accordingly, I direct the respondent



No. 4 to consider the case of the petitioners for grant of B.A. trained scale in the light of the judgment of Division Bench in CWJC No. 5129 of 2009 and analogous cases dated 18.07.2019 and Full Bench judgment in C.W.J.C. No. 11255 of 2016 and analogous cases dated 22.08.2019 and pass an appropriate order within a period of three months from the date of receipt/production of a copy of this order.

9. In the result, the Memo No. 6922 dated 09.11.2012 issued by the District Education Officer, Vaishali, is set aside.

10. Accordingly, the present writ application is disposed with the aforesaid direction.

(Anil Kumar Sinha, J)

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