

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6968 of 2016

1. Geeta Kumari W/o Binod Prasad Sinha, Deep Nagar, Gulzarbagh, Mehadiganj, District- Patna, at present as Assistant Teacher, B.N.R. Training College, Gulzarbagh, Patna.
2. Usha Sinha, W/o Achutanand Singh, Chandmari Road, At P.O. P.S. Samastipur, at present posted as Prabhari, Headmistress, Govt. of Girls Middle School, Samastipur.
3. Poonam Kumari, W/o Onkar Kumar, Parshanti Nilay, Sri Krishnapuri Ward no.5, Samastipur, Bihar, P.S. Samastipur, District- Samastipur, at present posted as Assistant Teacher, Govt. of Girls Middle School, Samastipur.
4. Prabha Jha, W/o Birendra Jha, At P.O. Dullipatti, P.S. Jaynagar, District- Madhubani, at present posted as Music Teacher, Govt. Girls Middle School, Madhubani.
5. Mala Kumari, W/o Dr. Bal Krishna Mishra Jaldhari Chowk, At P.O. P.S. District- Madhubani, at present posted as Prabhari Headmistress, Govt. Girls Middle School, Madhubani.
6. Pratibha Roy, W/o Laxmikant Dubey, At- Jaso, P.S. District- Buxar, at present Posted as Assistant Teacher, Govt. Girls Middle School, Buxar.
7. Naznin Akhtar, D/o Jamil Akhtar, P.O. P.S. Kadamkuan, Distt- Patna. at present Posted as Assistant Teacher, Govt. Girls Middle School, Hajipur.
8. Prema Kumari, W/o Shashi Kant Upadhyay, At P.O. Bhabhua, Distt- Kaimur, at present posted as Assistant Teacher, Govt. Girls Middle School, Bhabhua.
9. Rekha Kumari, W/o Vishwamohan Thakur, Ram Nagar, Vishnupur, At P.S. District- Begusarai, at present posted as Assistant Teacher, Govt. Girls Middle School, Begusarai.
10. Ram Kumari, W/o Ravis Prasad Sharma, Vill- Majhaul, P.O. Chera, Bariyarpur, Distt- Begusarai, at present posted as Assistant Teacher, Govt. Girls Middle School, Begusarai.
11. Sudha Kumari Verma, W/o Rabindra Nath Sharma, P.O. P.S. District- Siwan. at present posted as Prabhari Headmistress, Govt. Girls Middle School, Siwan.
12. Kumari Mansha Sinha, W/o Kripa Shankar Singh, Vill- Nai Basti, P.S. Mahadeva, District- Siwan, at present posted as Assistant Teacher, Govt. Girls Middle School, Siwan.
13. Ranjana Sharma, W/o Animesh Kumar Sharma, R.S. Public School, Gandhi Ashram Road, P.O. P.S. Hajipur at Vaishali. at present posted as Music Teacher, Sanlagna Abhyas Shala, Women's Primary Teacher's Training College, Chandwara, Muzaffarpur.
14. Basuri Acharya, W/o Late Trideo Taran Mukherjee, B.N.R. Training College Road, Gulzarbagh, P.S. Alamganj, Distt- Patna at present Posted . at present posted as Assistant Teacher, Govt. Girls Middle School, Hajipur.
15. Kusum Kumari, W/o Anil Kumar Sinha, Kusum Vatika, Panchawati Colony, P.S. Anishabad, District- Patna. at present posted as Assistant Teacher,



B.N.R. Training College, Gulzarbagh, Patna.

16. Kanta Kumari, W/o Late Shambhu Prasad Choudhary, At P.S. Mahnar, Distt- Vaishali, at present posted as Prabhari Headmistress, Govt. Girls Middle School, Madhepura.
17. Shobha Kumari, W/o Late Shashi Ranjan, B.N.R. Teacher's Quarter, Gulzarbagh, P.O. Gulzarbagh, P.S. Alamganj, District- Patna. at present posted as Assistant Teacher B.N.R. Training College, Gulzarbagh, Patna.
18. Renu Kumari, W/o Nawal Kumar Sinha, Muhalla- Amarpur Paijaba, P.O. Jhauganj, P.S.- Mehdiganj, Distt- Patna. at present posted as Assistant Teacher B.N.R. Training College, Patna.
19. Pushplata Sinha, W/o Om Prakash Prasad, Badoi Yusutpur, P.S. Hajipur Distt- Vaishali, at present posted as Prabhari, Headmistress, Govt. of Girls Middle School, Hajipur.
20. Bibha Rani, W/o Rakesh Kumar, Aghoria Bazar, P.O. P.S. Muzaffarpur. at present posted as Assistant Teacher, Sanlagan Abhyas Shala, Women's Teacher's College, Chanwara, Muzaffarpur.
21. Rajni Kumari, W/o Vijay Kumar Singh, House No. B/12, Bankman's Colony, Chitragupta Nagra, P.S. Kankarbagh, District- patna. at present posted as Assistant Teacher, Govt. Middle School, Hajipur.
22. Madhulika Lal, W/o Ashok Kumar Lal, E/128, P.C. Colony, P.S. Kankarbagh, District- Patna at present posted as Lecturer, Women's Primary Teacher's Training College, Chhapra.
23. Chandra Jyoti, W/o Jai Prakash, Nehru Nagar, At P.O. P.S. Buxar, Distt- Buxar, at present Retired Headmistress, Govt. Middle School Buxar.
24. Kumari Abha Sinha, W/o Late Ashwini Kumar Verma, Village- Safepur, P.O. P.S.- Nonhi, Distt- Jehanabad, at present posted as Assistant Teacher, Govt. Girls Middle School, Hajipur.
25. Sharda Kumari Devi, W/o Siddhi Nath Prasad Bhagat, P.O. P.S. Bhabhua, District- Kaimur. at present posted as Assistant Teacher, Govt. Girls Middle School, Bhabhua.
26. Ranjan Kumari W/o Avinash Chandra, At P.O. P.S. Jehanabad, At present Posted as Assistant Teacher, Govt. Middle School, Jehanabad.
27. Sudha Kumari Varma W/o Deo Nandan Prasad, At P.S. Saharsa, at present posted as Assistant Teacher, Govt. Girls Middle School, Saharsa.
28. Meera Singh, W/o Late Indra Mani Singh, P.O. P.S. Saharsa, at present posted as Assistant Teacher, Govt. Girls Middle School, Saharsa.
29. Radha Devi, W/o Fanindra Kumar Singh, P.O. P.S. Saharsa, at present posted as Assistant Teacher, Govt. Girls Middle School, Saharsa.
30. Baby Kumari, W/o Kabindra Kumar Singh, P.O. P.S. Saharsa, at present posted as Asistant Teacher, Govt. Girls Middle School, Saharsa.
31. Tara Singh W/o Baidyannath Singh, P.O. P.S. Saharsa, at present Retired Teacher, Govt. Girls High School, Saharsa.
32. Kanak Lata, W/o Rakesh Ranjan Singh, Rose Vale Academy Behind Apsara Hotel Kadamkuan, PO. P.S. Kadamkuan, Patna -800003, at present working as Assistant Teacher, B.N.R. Training College, Gulzarbagh, Patna-7.



33. Dr. Mini Kumari, W/o Sudhir Kumar, Rajiv Nagar, Road No.21, House No.36, P.S. Rajiv Nagar, Patna-24, at present working at B.N.R. Training College, Gulzarbagh, Patna-7
34. Kamla Kumari, W/o Ramashraya Prasad Singh, Sonar Toli P.O. P.S. Saharsa, District- Rohtas. at present posted as Assistant Teacher, Govt. Girls Middle School, Sasaram.
35. Lalita Singh, W/o Subhash Singh, P.O. P.S. Saharsa, Distt- Saharsa. at present posted as Assistant Teacher, Govt. Girls High School, Saharsa.
36. Rita Rani, W/o Shyam Deo Bhagat, Police Line, Daulatpur, P.S. Jamalpur, District- Munger. at present posted as Assistant Teacher, Baidya Nath Girls High School, Munger.
37. Vimla Kumari, W/o Late Kamlesh Prasad Gupta, Betapur, Mayur Chowk, P.S. Munger, Distt- Munger. at present posted as Assistant Teacher, Baidya Nath Girls High School, Munger.
38. Sayeeda Nasrin, D/o Late Md. Samiullah, Near Jail Superintendent Quarter, Fort Area, P.S. Distt- Munger. at present posted as Assistant Teacher, Baidya Nath Girls High School, Munger.
39. Sabina Khatoon, W/o Sheikh Fakhruddin, Najnin Chowk, P.O. P.S.- Bettiah, at present posted as Assistant Teacher, Govt. Girls Middle School, Bettiah.
40. Sudha Kumari, W/o Prabhu Narayan Singh, Village P.O. Barka Gaon, P.S. Pakridayal Distt- East Champaran. at present posted as Assistant Teacher, Govt. Girls Middle School, Bettiah.
41. Monika Devi, W/o Shankar Lal Das, P.O. P.S. Saharsa, at present Retired Teacher, Govt. Girls Middle School, Saharsa.
42. Sudha Devi, W/o Amrendra Jha, P.O. P.S. Saharsa, at present Retired Teacher, Govt. Girls High School, Saharsa.
43. Mini Gupta, W/o Ajay Kumar Gupta, Ward No.21, P.O P.S. Madhepura, at Present posted as Assistant Teacher, Govt. Girls Middle School, Madhepura.
44. Kiran Kumari, W/o Om Prakash Thakur, Ward No. 09, P.O. P.S. Madhepura, at present Posted as Assistant Teacher, Govt. Girls Middle School, Madhepura.
45. Pushpa Kumari W/o Shashi Kumar Sah, Vill P.O. P.S. Mathai, District- Madhepura. at present posted as Assistant Teacher, Govt. Girls Middle School Madhepura.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Secondary Education, Education Department, Govt. of Bihar, Patna.
3. The Dy. Director, Secondary Education, Education Department, Govt. of Bihar, Patna.

... .. Respondent/s



with
Civil Writ Jurisdiction Case No. 17109 of 2017

1. Ramesh Thakur S/o Late Shiv Chandra Thakur Resident of Village P.O. - Muraitha, P.S. - Jale, District - Darbhanga.
2. Sanjay Bihari Pandit S/o Late Sitabi Pandit R/o Saraswati Sangitayalaya, Infront of Workshop, Hospital Road, P.S. and District - Khagaria, Bihar, Pin Code - 851204.
3. Smt. Rekha Kumari W/o Late Raj Kumar Sinha R/o Ward No. 8, Village P.O. - Sanhauli, P.S. - Chitragupta Nagar, District - Khagaria.
4. Kanchan Kumari W/o Sri Sunil Kumar Yadav R/o V.I.P. Colony, North Side of Jamui Block, P.O. P.S. District - Jamui.
5. Manju Bala W/o Vikash Kumar Sinha R/o Mogal Bazar, Railway Gumti No. 2, Infront of Poor House, P.S. - Kotwali, District - Munger.
6. Noor Jahan Begum W/o Late Inayat Husain R/o Maksaspar Bada, Hajratganj Khanka, Road No. 3, P.S. - Kasim Bazar, District - Munger.
7. Dr. Sauda Khatun D/o Md. Hasan In-Charge Headmistress, Govt. Girls Middle School, Araria.
8. Meera Devi W/o Sri Narayan Prasad Sah In-Charge Headmistress, Govt. Girls Middle School, Begusarai.
9. Shubhra Rani W/o Avinash Kumar Srivastava Resident of Chetna, near I.T.I. Nageshwar Lane, P.S. - Kazi Mohammadpur, District - Muzaffarpur - 842001.
10. Ranjana W/o Uma Shankar Srivastava R/o Mohalla - Gandhi Nagar, Road No. 3, B.B. Ganj, P.S. Sadar Bhagwanpur, District Muzaffarpur - 842001.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Secondary Education, Education Department, Govt. of Bihar, Patna.
3. The Dy. Director, Secondary Education, Education Department, Govt. of Bihar, Patna.
4. The Regional Deputy Director of Education, Munger Division, Munger.
5. The Regional Deputy Director of Education, Purnea.
6. The Regional Deputy Director of Education, Darbhanga.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 6968 of 2016)

For the Petitioner/s	:	Mr. Rajeew Kumar Singh, Advocate
	:	Mr. Prabhojot Singh, Advocate
	:	Mr. Abhijeet, Advocate
For the Respondent/s	:	Mr. Vinay Kumar Mishra, AC to AAG 15



(In Civil Writ Jurisdiction Case No. 17109 of 2017)

For the Petitioner/s : Mr.Purushottam Kumar Jha, Advocate
For the Respondent/s : Mr.Madhaw Prasad Yadav -GP 23
: Mr.Rajesh Kumar Sinha, AC to GP 23

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 20-08-2024

1. Heard learned counsel for the parties concerned.
2. The petitioners have approached this Court to consider them for promotion from Lower Subordinate Service Cadre (in short L.S.S. Cadre) to Bihar Subordinate Education Service Cadre and then grant them benefits of merger of Subordinate Education Service Cadre (Teaching Branch) (in short S.E.S. Cadre) into Bihar Education Service Cadre (Class-II), as per the decision of the Government of Bihar, upheld by the Hon'ble Supreme Court.
3. The petitioners were appointed after due process of selection on the sanctioned post of Assistant Teachers in the Government Schools between the years 1981 to 1996 under L.S.S. Cadre.
4. Learned counsel for the petitioners submits that the Teachers who have completed minimum 07 years and maximum 09 years of service in L.S.S. Cadre are entitled to be promoted to the S.E.S. Cadre and from that date itself, by virtue of the decision of the State Government, they are entitled to be placed in Bihar Education Service Cadre (Class-II). Learned



counsel further submits that many juniors to the petitioners have been promoted to S.E.S. Cadre and therefore, they have been given benefits under Bihar Education Service (Class-II) Cadre. The details of the promotion given to the juniors of the petitioners are mentioned in paragraph no. 18 of the rejoinder affidavit, filed by petitioners in C.W.J.C. no. 17109 of 2017. He next submits that it is not disputed that the cadre of S.E.S has been merged with Bihar Education Service Cadre (Class-II) w.e.f. 01.01.1977 and various Government Teachers as well as Teachers of the Sanskrit Schools were also granted benefit of merger by the respondent authorities, however the petitioners have been denied promotion as well as benefit of merger in an arbitrary and discriminatory manner.

5. Learned counsel for the respondents submits that the initial appointment of the petitioners are subject matter of inquiry by the C.B.I. and on the basis of the inquiry report of the C.B.I., the departmental proceeding has been initiated against the petitioners, as such, the petitioners are not entitled to be considered for promotion from L.S.S. Cadre to S.E.S. Cadre and further, benefit of merger in the cadre of Bihar Education Service Cadre (Class-II). Learned counsel further submits that departmental inquiry has been initiated in light of the order



passed in C.W.J.C. No. 17904 of 2016 along with analogous cases. Learned counsel further submits that in C.W.J.C. No. 17109 of 2017, petitioners no. 2, 3, 4, 8 and 10 were dismissed from their services but that order has been quashed by the Hon'ble Court and a direction was given to reinstate them. So far as petitioners no. 7 and 9 are concerned, their 100% pension has been forfeited as also no action has been taken against petitioner no. 1. Learned counsel for the respondent- State submits that in C.W.J.C. No. 6968 of 2016, petitioners no. 7, 10, 13, 17, 21, 26, 27, 29, 32, 33, 43, 44, 45 have been dismissed from service, however, pursuant to the order passed by this Hon'ble Court, petitioner no. 10 has been directed to be reinstated. Insofar as petitioners no. 1, 14, 15, 16, 18, 19, 20, 23, 25, 28, 31, 34, 36, 37, 38 and 42 are concerned, their pensionary benefits have been forfeited, however, in case of petitioners no. 14, 31, 36, 37, 38, order of forfeiture of pension has been set aside by Hon'ble High Court.

6. In reply, learned counsel for the petitioners relied upon the Division Bench judgment of this Court in L.P.A. No. 1219 of 2023, filed by the aggrieved teacher namely Kamini Kumari, who was appointed along with the petitioners in the year 1981 by the same appointment letter and she has been



granted promotion from L.S.S. Cadre to S.E.S. Cadre and has been given the benefit of merger in Bihar Education Service Cadre (Class-II). The Division Bench of this Hon'ble Court, after taking note of the delay and the manner of inquiry conducted by the C.B.I., has been pleased to set aside the impugned order of learned Single Judge, passed in C.W.J.C. No. 8020 of 2022 (Kamini Kumari and analogous cases). The Hon'ble Court has expressed his anguish in paragraph no. 48 of the judgment in the manner the inquiry proceedings were initiated and proceeded and also imposed cost of Rs. 5,000/- upon the respondent State, while allowing the appeal.

7. Learned counsel for the petitioners further submits that the order of forfeiture of pension of petitioners no. 7 and 9 in C.W.J.C. No. 17109 of 2017 has been quashed by Division Bench of this Court in L.P.A. no. 1249 of 2023 (Sauda Khatun v. The State of Bihar and Ors.) and L.P.A. No. 1268 of 2023 (Shubhra Rani v. The State of Bihar and Ors.). Learned counsel next submits that in case of other petitioners, on the similar ground of C.B.I. enquiry, the learned Division Bench and Single Bench of this Hon'ble Court have interfered and quashed the order of dismissal and forfeiture of pension and in some cases, the writ petitions on behalf of aggrieved petitioners, are



pending.

8. I have heard learned counsel for the parties and gone through the relevant materials on record. The facts are not disputed by the respondents that juniors to the petitioners, even the persons who were appointed along with the petitioners, have been granted promotion from L.S.S. Cadre to S.E.S. Cadre and benefit of merger to Bihar Education Service Cadre (Class-II). Though, the argument has been made by the respondent- State to the effect that a departmental proceeding has been initiated against the petitioners on the basis of the inquiry conducted by the C.B.I. but no material has been brought on record regarding the date of initiation of departmental proceeding against the petitioners and any memo of charge being served upon them. Only vague submission has been made that inquiry has been initiated against the petitioners and as such, they are not entitled to be granted promotion during pending inquiry.

9. In the identical matters, the Division Bench of this Court has taken note of the C.B.I. inquiry and has given the finding and expressed its anguish in paragraph no. 48 of the judgment, passed in L.P.A. No. 1219 of 2023, stating that inquiry proceedings were initiated and proceeded arbitrarily, flouting all procedural requirements. There were even instances



of the disciplinary authority finding the individual liable to be continued, after which, again without notice, subsequent inquiry report was obtained and punishment imposed.

10. On consideration of rival submissions of the parties and the judgment rendered by the learned Division Bench of this Court, I feel it expedient that the responsible authority in the Department of Education should consider the individual case of the petitioners and pass a reasoned and speaking order, upon representation being filed by the petitioners, within a reasonable time frame. Based upon various judgments of this Court, in my opinion, the authority who will decide the issue shall be the Director (Administration), Education Department, Bihar, Patna. Accordingly, the petitioners are directed to file a detailed representation along with the judgments of this Court, passed in identical matters, before the Director (Administration) Education Department, Bihar, Patna, within a period of one month from today and if such representation is filed, Director (Administration), Education Department is directed to dispose the representation by a reasoned and a speaking order, after giving opportunity of hearing to the petitioners, within a period of four months of receipt of representation.

11. It goes without saying that if the teachers who have



been found entitled for promotion and benefit of merger of cadre, they shall be given their consequential monetary benefit, within a period of one month of disposal of representation.

12. With the aforesaid observations and directions, the present writ application is disposed off.

(Anil Kumar Sinha, J)

rinkee/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.08.2024
Transmission Date	NA

