

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16333 of 2023

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Baby Kumari Wife of Sri Sudarshan Thakur, Resident of Village and Post-Sewan, P.S.- Jahanabad, District- Jahanabad, Presently Posted as Panchayat Teacher at Primary School Daulatpur, Block and District- Jahanabad.

... .. Petitioner/s

Versus

- 1 . The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
- 3 . The Director (Primary Education), Department of Education, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The District Education Officer, District- Jahanabad.
- 5 . The District Programme Officer (Establishment), District- Jahanabad.
6. The Block Education Officer, Block and District- Jahanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Avanindra Kumar Jha, Advocate Mr. Purushottam Kumar Jha, Advocate Mr. Anand Kumar Tiwari , Advocate Mr. Ram Naresh Jha, Advocate Mr. Narendra Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Madan Jeet Kumar (Gp 20)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 17-12-2024 Heard learned counsel for the parties.

2. This writ application has been filed for the following reliefs:-

(i) To hold and declare that since the petitioner is similarly & identically situated person, vis a vis – Nirmala Kumari & Ajay Hansraj (junior), and others, who were appointed vide Ann-2, and, she has suffered severe & perpetual kind of undue hardship, due to gross discrimination & arbitrariness, laches and engligence of the resppondents, she is entitled for being extended the benefit of trained scale of pay,



with effect from retrospective date (04.02.2013), at least notionally , for the purposes of pay protection & protection of seniority .

(ii) To direct the respondent/s concerned to extend the benefit of trained scale of pay to the petitioner with effect from the retrospective date 04.02.2013 i. e., the date from which similarly & iodentically situated persons, {(Nirmala Kumari & Ajay Hansraj (junior)} have received the trained scale of pay , at least notionally , for the purposes of pay protection & protection of seniority .

3 . At the outset, learned counsel appearing on behalf of the State raises preliminary objection to the effect that an alternative Statutory remedy is available to the petitioner to move before the District Appellate Authority by way of filing appropriate application under Section 13 of Bihar State School Teacher (Appointment, Transfer, Disciplinary Proceedings and Service Conditions) Rules, 2020 (hereinafter referred as “Rules, 2020”), which deals with the power and functions of the District Appellate Authority.

4. Since the petitioner has got statutory alternative remedy to move before the District Appellate Authority under Rule 13 of the Rules 2020, this Court is not inclined to interfere in the matter in its extra-ordinary writ jurisdiction.

5 . In view of the aforesaid facts and circumstances, petitioner is directed to file an application before the District Appellate Authority in accordance with law.



6. In the event, such application is filed by the petitioner, the authority concerned is directed to dispose of the same, in accordance with law, after hearing the parties, by a reasoned and speaking order, as expeditiously as possible.

7. With the aforesaid observations and directions, this writ application stands disposed of.

8 . It goes without saying that if any question of limitation arises before the District Appellate Authority, the same shall be considered, taking into consideration the fact that the petitioner was pursuing the issue before this Court under Article 226 of the Constitution of India .

(Prabhat Kumar Singh, J)

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