

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No. 60 of 2024

In
Civil Writ Jurisdiction Case No.15610 of 2018

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1. Akhileshwar Sharma Son of Late Ramdeo Sharma, Resident of village-Sheikhpura, Police Station - Naubatpur, District -Patna. Address as per Aadhar Card is resident of Purushottampur, Amarpura, Patna. At present posted and working as Headmaster in Govt. Middle School Punpun, Anchal - Punpun, District - Patna.
 2. Ramvilas Yadav son of Late Bhola Yadav, Resident of village-Burhnichak, Hasan Chak, Barh Rs Police Station - Barh, District -Patna. Retired while working as Headmaster in Govt. Middle School Bakhtiyarpur, Anchal - Bakhtiyarpur, District - Patna.
 3. Vidya Nand Singh Son of Late Harihar Prasad Singh resident of 622, Ram Krishna Nagar, Cantt- Khagaul Road, Behind Rose Bud School, Dinapur-cum-Khagaul, Police Station - Danapur, District - Patna. At present posted and working as a Headmaster in Govt. Balak Middle School Punaichak, Gardanibagh, Anchal Gardanibagh/Patna Sadar, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Mr. K.K. Pathak, the Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. Mr. S. Siddharth, the Principal Secretary, Finance Department, Government of Bihar, Patna.
4. Mr. Mithilesh Mishra, the Director, Primary Education, Bihar, Patna.
5. Mr. Md. Mimsad, the Regional Deputy Director of Education, Patna Division, Patna.
6. Mr. Amit Kumar, the District Education Officer, Patna.
7. Mr. Arun Kumar Mishra, the District Programme Officer (Establishment) Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate
For the Opposite Party/s : Mr. Government Pleader 20

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 09-05-2024

Heard the parties.

2. The present petition has been filed for compliance



of the order dated 12.09.2022 in CWJC No. 15610 of 2018 by which the writ petition was disposed of with a direction to the respondents to prepare a seniority list as directed by the Full Bench within a period of six months.

3. A show cause on behalf of opposite party nos. 6 and 7 has been filed and paragraphs 5 and 6 read as follows:

“5. That in compliance of the order passed by this Hon'ble Court as well as direction given by the Director, Primary Education, the gradation list with regard to such teachers whose promotion were not granted in between the period 2007 to 2010 have been considered against the respective vacancy year wise as per direction contained in paragraph no. 13 of the judgment and accordingly the Graduate trained scale has been shifted with effect from 31.12.2007 as per available vacancy vide order contained in memo no. 8226 dated 21.09.2023 whereas from the perusal of the petition it is apparent that on earlier occasion the Graduate trained scale was given to the petitioners with effect from the date of 16.07.2010 vide memo no. 3335. Thus the order under the contempt has already been complied with in reference to the petitioners for the grant of Graduate trained scale however, as far as the claim of the petitioner with respect to the



shift of date of promotion on the post of headmaster is concerned, it is not admissible in view of the Bihar Elementary School Teachers Promotion Rule, 1993 in view of the provision contained in the said rule under clause 5(4) of the rule whereby and where under it has been categorically mentioned that for promotion to Grade 7 post (i.e. for the post of Headmaster of Middle School) "Trained post graduate in the event of promotion from grade 4 (i.e. Graduate Trained Teachers) to grade 7, in case of non availability of teachers in grade 6 (i.e. selection grade scale for graduate trained teacher) and grade 5 (i.e. Senior scale of graduate trained teacher) minimum five years of service in grade 4 is required" thus, in view of the said provision they were entitle to be promoted as a Headmaster in the year 2012 but due to implementation of new Promotion Rule in the year 2011 these petitioners became entitle for the promotion on the post of Headmaster and accordingly it was given to them.

6. That in view of the aforesaid fact of the matter, it is apparent that these petitioners were not entitled for grant of promotion on the post of Headmaster in view of the aforesaid provision of Rule, 1993 and the entire judgment is based on the



entitlement of aspirant in view of the Rule, 1993. Thus the answering deponent humbly submits that the order under contempt with reference to these petitioners have already been complied with and no contempt is made out at the level of the answering deponent and accordingly prays to this Hon'ble Court to drop the present proceeding in the interest of justice.”

4. This Court is satisfied that no contempt is made out.

5. The petitioners, if so want can pursue their remedy by way of filing writ petition.

6. The MJC No. 60 of 2024 stands disposed of.

(Rajiv Roy, J)

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