

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4452 of 2021

Narayan Chaudhary, Son of Late Hiralal Chaudhary Resident of Village and Post office - Laukha, Police Station - Supaul, District Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Govt. of Bihar, Patna.
2. The Director, Primary and Adult Education, Bihar, Patna.
3. The District Magistrate, Madhepura.
4. The District Education Officer, Madhepura
5. The District Programme Officer (Establishment), Madhepura.
6. The Block Education Extension Officer, Block-Gamharia, District-Madhepura.
7. The Headmaster, Primary School, Kamaljari Block- Gamharia, District-Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate.
For the Respondent/s : SC-28.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 10-04-2025

Heard Mr. Pramod Mishra, learned counsel
appearing on behalf of the petitioner and learned SC-28 for the
State.

2. The petitioner in paragraph no. 1 of the present writ petition has sought, *inter alia*, following relief(s), which is reproduced hereinafter:-

“(i) A certiorari setting aside the office order containing in memo no. 1355 dated 31.05.2012 issued by the Respondent District Programme Officer (Establishment), Madhepura, whereby and whereunder the order as contained in Annexure-5 and 6 has been cancelled illegally without affording even any opportunity of hearing to the petitioner.

(ii) For issuance of an appropriate order(s), direction(s) or writ(s) in the nature of Mandamus commanding the respondents to make payment of arrears of



salary to petitioner from 30.12.1988 to 18.07.1993 in pursuance of memo no. 768 dated 20.06.2009 (Annexure-5) issued by the office of the District Programme Officer (Establishment), Madhepura.

(iii) Further for issuance of an appropriate order(s), direction(s) or writ(s) in the nature of mandamus commanding the respondents to make payment of differences of arrears of salary to the petitioner from 30.04.2000, in pursuance of memo no. 833 dated 30.06.2009 issued by the office of District Programme Officer (Establishment), Madhepura, whereby approval has been made to make the payment of salary of the petitioner of Matric Trained Teacher (Pay Scale 4500-125-7000) from the date of 30.04.2000.

(iv) Further for direction to Respondents to make the payment of arrear of salary of the petitioner from 16.03.1970 to 29.12.1988 with interest.

(v) For any other relief or reliefs to which the petitioner may be found entitled in the facts and circumstances of the case.

3. During the pendency of the writ petition, the District Programme Officer (Establishment), Madhepura had passed an order contained in Letter No. 1076 dated 05.09.2024 without applying independent mind while rejecting the claim of the petitioner in light of the Letter No. 460 dated 26.04.2024, as well as, Letter No. 1133 dated 22.05.2024 of the District Education Officer, Supaul. Petitioner has already challenged the aforesaid two letters in the main writ petition. From perusal of the service book of the petitioner, it would appear that the Director, Primary Education, vide Letter No. 998 dated 07.06.1995 had directed to give Matric Trained Pay Scale to all the teachers who were possessing Intermediate or Graduate degree. The petitioner has claimed that he is intermediate pass



and information has been entered into his service book which would appear from Column No.7. The petitioner further informs that Vide Memo No. 768 dated 20.06.2009, the District Education Superintendent, Madhepura had approved to make payment of arrears of salary of the petitioner after inquiry of work period from 30.12.1988 to 18.07.1993 and vide Memo No. 833 dated 30.06.2009, the District Education Superintendent, Madhepura had directed to make payment of difference of salary to the petitioner in the Matric Trained Teacher pay scale 4500-125-7000 from 30.04.2000. The said letter was cancelled by the District Programme Officer (Establishment) vide Letter No. 1355 dated 31.05.2012 and this Court while considering the relief of the petitioner in C.W.J.C. No. 20869 of 2011 vide order dated 16.05.2016 granted liberty to the petitioner to avail appropriate remedy against the order contained in Memo No. 1355 dated 31.05.2012 which was brought for the first time by the respondent along with the counter affidavit being Annexure-7 to the said writ petition. The petitioner, in such circumstances, is aggrieved by Annexure-7 and the subsequent action of the District Programme Officer who has passed the order dated 05.09.2024 contained in Memo No. 1076 (Annexure-9).

4. The ground of challenge is that the District



Programme Officer (Establishment) has not applied his independent mind while rejecting the case / claim of the petitioner and the same is required to be set aside.

5. Learned counsel appearing on behalf of the Stated submitted that the service of the petitioner has been approved on 30.12.1988, thus only upon adding 15 years, in the year 2003, the petitioner would have been entitled for matric trained scale, whereas vide Memo No. 833 dated 30.06.2009, the petitioner had erroneously been accorded matric trained scale from 30.04.2000 in light of the Memo No. 833 dated 30.06.2009 which provides for eligibility for matric trained scale only upon attainment of age of 55 years or 15 years experience.

6. Heard the parties.

7. Having heard the rival submissions made on behalf of the parties, as well as, the pleading made in the writ petition and the counter affidavit, as well as, the modification of relief by filing I.A. No. 01 of 2025, I find that in accordance with Memo No. 3304 dated 30.12.1988 passed by the Director, Primary Education, the petitioner along with other teachers were entitled for matric trained scale subject to the condition that they would have been appointed before 01.01.1971 and they were



possessing matric certificate on 01.01.1971. The testimonials were required to be verified after comparing the original and also the services of the petitioner was required to be without any break. The said notification further required the student is to teacher ratio. The claim of the petitioner was allowed vide Memo No. 833 dated 30.06.2009 for payment of matric trained scale for the period 30.12.1988 to 18.07.1993. Vide Memo No. 1355 dated 31.05.2012 (Annexure-7), the District Programme Officer (Establishment), Madhepura had rejected the claim of the petitioner by setting aside Memo No. 768 dated 20.06.2009 and Memo No. 833 dated 30.06.2009 without assigning any reason and following the directives contained in Memo No. 3304 dated 30.12.1988.

8. I find that the then District Education Officer had acted in a most illegal manner which led this Court to direct the petitioner to avail appropriate remedy against the order dated 31.05.2012 contained in Memo No. 1355 (Annexure-7).

9. Instead of abiding by the order of the Director, Primary Education contained in Memo No. 3304 dated 30.12.1988 and without verifying the documents which entitled the petitioner for matric trained scale with effect from the date the said letter was issued i.e. 30.12.1988, the present District



Programme Officer, Madhepura has proceeded to apply his mind in his own manner that the minimum requirement for matric trained pay scale is applicable on two criteria being that the teacher should have completed 45 years of age and 15 years of teaching experience which the petitioner was not having and incorrectly he was granted matric trained scale on 30.04.2000. The reason recorded by the District Programme Officer (Establishment), Madhepura contained in Memo No. 1076 dated 05.09.2024 cannot be said to be based on proper consideration of the fact and the Rules governing the service condition of the teachers who were appointed as per the Rules applicable at the relevant point of time. It is admitted by the parties that the petitioner was appointed in the year 1970 without determining the date of birth of the petitioner and the age on the date he was appointed as teacher on the basis of matriculation certificate.

10. I have no other reason than to quash the order dated 31.05.2012 contained in Memo No. 1355 (Annexure-7) and the order dated 05.09.2024 contained in Memo No. 1076. Both the orders are set aside and quashed.

11. The petitioner may avail appropriate remedy before the Director, Primary Education who is required to call for the service particulars relating to the petitioner from the



office of the District Education Officer and the District Programme Officer (Establishment) and summon them for giving the detailed facts and pass order after giving due opportunity of hearing to the petitioner in accordance with law expeditiously.

12. The writ petition stands disposed of.

(Purnendu Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.04.2025
Transmission Date	NA

