

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2298 of 2024

1. Anup Kumar S/o Sri Gajendra Mohan Prasad R/o Mohalla-Janakpur, P.S. Muffasil, District-Gaya. At present posted as Headmaster in Middle School Mandai, Khizer Sarai, Gaya.
2. Jitendra Narayan Singh S/o Late Balkeshwar Singh R/o Village-Manjaithi, P.O. Bandy, P.S. Goh, District-Aurangaband. At present posted as an Assistant Teacher in Middle School Ghughari Tand, Nagar Nigam South Gaya, Distt-Gaya.
3. Chandramani Kumar S/o Late Mahendra Prasad Singh R/o Village-Jamuawan, P.S.- Mahkar, District-Gaya. A/p posted as Headmaster, Middle School, Hasanpur, Khizer Sarai, Distt-Gaya.
4. Shahid Akhtar S/o Late Fariduddin Ansari R/o Mohalla- Jagdispur, P.S.- Muffasil, Distt-Gaya. A/p posted as Trained Graduate Teacher in Middle School, Chiraila, Manpur, Distt- Gaya.
5. Manoj Kumar S/o Late Ram Padarath Singh R/o Mohalla-Moriyaghat, Maksudpur House Compound, P.S. Kotwali, District-Gaya. At present posted as B.A. Trained Teacher in Mahavir Middle School, Gaya, Nagar Nigam North Gaya, Distt-Gaya.
6. Francis Samuel S/o Daniel Samuel R/o Mohalla-Rajendra Hostel, Christian Colony, P.S. Rampur, District- Gaya. At present posted as Headmaster in Middle School Salepura, Block- Gurua, District- Gaya.
7. Mohammad Nasimuddin S/o Late Abdul Mannan R/o Village- Bathani, P.S.- Neemchak Bathani, District- Gaya. At present posted as Headmaster in Middle School, Bandi, Block- Neemachak, Gaya.
8. Pankaj Kumar S/o Late Kamal Prasad Singh Resident of Mohalla-Jheelganj, Pipargali, P.S.- Kotwali, District- Gaya, A/p posted as a Headmaster in Middle School Sahbajpur, Block- Khizer Saray, Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director Primary Education, New Secretariat, Government of Bihar, patna.
3. The Regional Deputy Director of Education, Magadh Division, Gaya.
4. The District Education Officer, Gaya.
5. The District Programme Officer (Establishment), Gaya.
6. The District Education Officer, Gaya.
7. The Block Education Officer, Khizersaray, Gaya.
8. The Block Education Officer, Manpur, Gaya.
9. The Block Education Officer, Gurua, Gaya.
10. The Block Education Officer, Neemchak Bathani, Gaya.



- 11. The School Sub-Inspector, Nagar Nigam, North, Gaya.
- 12. The School Sub-Inspector, Nagar Nigam, South, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jai Prakash Verma, Adv.
For the Respondent/s : Mr. Anant Pd. Singh, SC 15
Ms. Deepika Sharma, AC to SC 15

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 27-11-2025

Heard the parties.

2. The petitioners before this Court were duly appointed as Assistant Teachers in different Primary Schools in the district of Gaya on compassionate ground in the pay scale of Matric untrained. Taking a clue from the decision rendered by a Bench of this Court in *Abdus Samad vs. The State of Bihar & Ors.* [CWJC No. 7322 of 2017] and other similar cases, duly affirmed by the learned Division Bench of this Court, the petitioners approached before the Director, Primary Education for identical benefit, as has been extended to Abdus Samad and other similarly situated persons. However, they are afraid with the order contained in Memo No. 1982 dated 08.11.2023, whereby the respondent No. 2 negated the claim of other identically situated persons by holding the decision of Abdus Samad as an exception and not treated as a precedent. Hence the present application assailing such observation.

3. Learned Advocate for the petitioners contended



that under the appointment letters of the petitioners, there was a clear stipulation that it was mandatory for them to complete training within three years from the date of appointment and after completing the training, their salary will be increased. Notwithstanding the aforesaid stipulation, the petitioners were sent for training belatedly and the examination of which was done after so many years. In the meanwhile, some of the persons, who were aggrieved with the inaction of the respondent authorities in sending them belatedly for training, they have approached this Court. In identical situation, one Abdus Samad has also approached this Court in CWJC No. 7322 of 2017, where the Court, after taking note of the facts that there is no lapse on the part of the petitioner and on account of dilly-dally and lapse of the respondents, he was not sent for in service training earlier, directed the respondents to consider the case of the petitioner for grant of Maitric trained scale on completion of three years from the date of joining of the petitioner as he cannot be faulted in the matter of non sending the petitioner for service training.

4. Against the order passed by the learned Single Judge; being aggrieved the State preferred an appeal bearing LPA No. 502 of 2021. However the same was withdrawn. It is



apprised to this Court that in pursuant to the order, *Abdus Samad* has been extended all the benefits. Similarly other identically situated persons have also approached in CWJC No. 22550 of 2018 and their cases have also been disposed of in identical fashion in terms with the decision of *Abdus Samad* (supra). The State again preferred an appeal bearing LPA No. 578 of 2021; however this time again, the appeal was withdrawn. All these above referred orders have been placed on record.

5. Learned Advocate for the petitioners referring to the afore noted decisions submitted that it is very surprising that some of the identically situated persons have been allowed the benefit of Matric trained scale after completion of three years of their service but in case of the petitioners and others, they have been denied similar benefits by holding that the case of *Abdus Samad* and others was in exceptional circumstances. The discrimination is writ large and thus the petitioners assailed the order whereby the claim of the petitioners has been rejected for identical relief, as has been extended to *Abdus Samad* and others, by making a sweeping observation, causing prejudicial to the claim of the petitioners.

6. Learned Advocate for the State referring to the



counter affidavit contended that admittedly the petitioners have passed their training examination on 04.02.2009, hence they have been allowed trained pay scale with effect from 04.02.2008 in terms of the circular of the State Government. The resolution bearing No. 12 dated 05.01.2015 has also been placed on record as Annexure-R/1. The emphasis has been given on Clause 4(i) to (iii) that since the petitioners have passed the examination in the year 2009 and therefore in terms with the rules, they have been provided trained pay scale with effect from the due date of 04.02.2008.

7. Having considered the submissions advanced by the learned Advocates for the respective parties and taking note of the stand of the concerned respondent by rejecting the claim of the petitioners and all other identically situated persons, this Court finds that this is not a case of only ***Abdus Samad*** (supra), rather others have also been allowed the benefit of Matric trained pay scale after completing three years from the date of their appointment, in case they were not sent up for in service training within the period of three years. Moreover, the order of the learned Single Judge passed in the case of the ***Abdus Samad*** (supra) does not reflect that the order has been passed *in personam* rather, *prima facie*, it appears to this Court that the



order is *in rem* and if the identical benefit has been accorded to some of the teachers, the respondent authorities should take a uniform decision with respect to others also, who are exactly identically situated. The State must not forget his own policy, i.e., Bihar State Litigation Policy, 2011, especially Clause 4.C(1) where in case relief of covered matter has been extended in favour of certain persons, such relief must be accorded to other identically situated persons, if their cases are based on identical facts.

8. The absence of arbitrary power is the first essence of rule of law. Discrimination in any form, if it does not stand to the test of Article 14 of the Constitution of India, the same is held to be illegal and any action or order is fit to be set aside. In view thereof, this Court finds substance in the writ petition. Accordingly, the impugned order dated 08.11.2023 contained in Memo No. 1982 stands set aside to the extent sweeping observation has been made causing prejudice to the claim of the petitioners. The matter is relegated to the respondent No. 2 to examine the claim of the petitioners afresh on filing of fresh representation alongwith the present order in the light of the decision rendered in the case of the *Abdus Samad* (supra) and further the identical matters which have been disposed of by this



Court, the copies of which have also been placed on record.

9. With the aforesaid directions, the present application stands disposed of.

10. It is expected that the Director, Primary Education shall take a fresh decision in the matter, preferably within a period of 10 weeks from the date of receipt/production of a copy of this order.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	01.12.2025
Transmission Date	

