

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5650 of 2019

Chandravadan Prasad Singh Son of Late Ramsakal Singh Resident of Village
and P.O.- Geeta Deodha, Ward No. 03, P.S.- Hasanpur, District- Samastipur.
... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resource Development Department, Government of Bihar, Patna.
2. The Director, Secondary Education, Bihar, Patna. Bihar, Patna.
3. The Deputy Director, Secondary Education, Bihar, Patna. Bihar, Patna.
4. The District Magistrate, Samastipur. Samastipur.
5. The District Education Officer, Samastipur Samastipur
6. The Principal, Ram Karan Thakur Project Balika Uchha Vidyalaya, Imansarai, Patori, Samastipur. Samastipur.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 6290 of 2019

1. Pranita Kumari Wife of Sri Ashwani Kumar Choudhary At and PO- bachhwara, P.S- Bachhhwara, Subn-Division. Teghra, Distt. Begusarai.
2. Shiv Kumar Singh Son of Late Yugeshwar Singh Resident of Village - Hasanpur Sural, P.O- Patori P.S. - Patori, Distt. Samastipur.
3. Shabnam Kumari Wife of Shri Om Prakash Thakur Resident of Village Nandani, PO Sivaipur, P.s. mahaudi Nagar, Distt. Samstipur.
4. Prabhat Kumar Son of Shri Ram Bilash Choudhary Resident of village - Iman Sarai P.O- Shahpur Unadi, P.S.- Patori, Distt. Samastipur.

.. ... Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Human Resource Development Department, Government of Bihar, Patna.
2. The Principal Secretary, Human Resource Development Department, Government of Bihar Patna.
3. The Director Secondary Education, Human Resource Development Department, Government of Bihar Patna.
4. The Regional Deputy Direcotr, Secondary Education Darbhanga
5. The District Education Officer Samastipur

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 6684 of 2019

Kumkum Kumari Wife of Mithila Bihari Prasad Singh Resident of Village
and P.O.- Garthisisai, P.S.- Vidyapatinagar, District- Samastipur



... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resource Development Department, Government of Bihar, Patna
2. The Director, Secondary Education, Bihar, Patna
3. The Deputy Director, Secondary Education, Bihar, Patna
4. The District Magistrate, Samastipur
5. The District Education Officer, Samastipur
6. The Principal, Ram Karan Thakur Project Balika Uchha Vidyalaya, Imansarai, Patori, Samastipur

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5189 of 2020

1. Ramchandra Chaudhary, S/o late Vishnudeo Chaudhary, R/o Village and P.O.- Dadpur, P.S.- Bhagwanpur, District- Begusarai.
2. Ram Kishore Singh, S/o Late Rampadarth Singh, R/o Village - Deodha, P.O.- Geeta Deodha, P.S.- Hasanpur, District- Samastipur.
3. Chandralekha Kumari, W/o Late Surednra Prasad Rai, R/o Village and P.O. - Sarairanjan, P.S. - Sarairanjan, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Secretary, Education Department, Government of Bihar, Patna.
4. The Director, Secondary Education, Government of Bihar, Patna.
5. The Deputy Director, Secondary Education, Government of Bihar, Patna.
6. The District Magistrate, Samastipur, District- Samastipur.
7. The District Education Officer, Samastipur, District- Samastipur.
8. The District Programme Officer, (Secondary Education), Samastipur, District- Samastipur.
9. The Headmaster / Headmistress, Ram Karan Thakur Project Girl High School, Imansarai, Block and P.S. - Patory, District Samastipur.
10. The Chairman, Managing Committee of Ramkaran Thakur Project Girl High School, Imansarai, Block and P.s.- Patory, District- Samastipur.
11. The Secretary, Managing Committee of Ram Karan Thakur Project Girl High School, Imamsarai, Block and P.S.- Patory, District- Samastipur.

... .. Respondent/s



Appearance :

(In Civil Writ Jurisdiction Case No. 5650 of 2019)

For the Petitioner/s : Mr. P.N.Shahi, Sr. Adv
Mr.Pankaj Kumar Sinha, Adv
For the Respondent/s : Mr. Jitendra Kr. Roy 1 (SC13)
Mr. Hitesh Suman, AC to SC-13

(In Civil Writ Jurisdiction Case No. 6290 of 2019)

For the Petitioner/s : Smt. Sudha Ambastha, Adv.
For the Respondent/s : Mr. Kameshwar Kumar (GP17)
Mr. S.K. Ranjan, AC to GP-17

(In Civil Writ Jurisdiction Case No. 6684 of 2019)

For the Petitioner/s : Mr.Pankaj Kumar Sinha, Adv.
For the Respondent/s : Smt.Binita Singh (SC28)

(In Civil Writ Jurisdiction Case No. 5189 of 2020)

For the Petitioner/s : Mr.Mrityunjay Kumar, Adv.
For the Respondent/s : Mrs.Binita Singh (SC28)

**CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
CAV JUDGMENT**

8. **16-10-2025** Heard Sri. P.N.Shahi, Sr. Advocate, Sri Pankaj Kumar Sinha, Advocate, Smt. Sudha Ambastha, Sri Mritunjay Kumar, Advocates for the petitioners and Sri. Jitendra Kumar Roy, SC-13 assisted by Sri Hitesh Suman, AC to SC-13, Sri Kameshwar Kumar, GP-17, assisted by S.K.Ranjan, AC to GP-17 and Smt. Binita Singh, SC-28, for the Respondents-State.

2. Pursuant to the Order dated 01.12.2023 & 04.01.2024 passed in CWJC No. 5650 of 2019, the other writ petitions being CWJC No. 6290 of 2019, CWJC No. 6684 of 2019 & CWJC No. 5189 of 2020 were made analogous and after completing the pleadings by allowing all the parties to submit their responses, the matter was finally heard on 16.09.2025, and after hearing the respective counsels for the writ petitioners as well as the Respondents, and accordingly, the



above writ petitions are being disposed of by a common order as the issues involved in these cases originates from the common impugned order, while in CWJC No. 6290 of 2019, there is no decision taken by the respondents with regard to their absorption in the light of the Resolution of the Government issued through the Department of Education as contained in Memo No.-12/P1-18/90/98P dated 15.06.2018, while the stand of the respondents in the counter affidavit being common to that of the reasons assigned in the impugned orders, the subject matter of which is challenged in the other analogous writ petitions, referring to the cut-off date shown to be operating as a bar in deciding their case of absorption, this writ petition is also being adjudicated together with the other writ petitions referred hereinabove.

3. The writ petitions i.e., CWJC No. 5650 of 2019, CWJC No. 6684 of 2019 along with CWJC No. 5189 of 2020 have been filed for the relief(s) mentioned hereinbelow: -

(i) For setting aside the office order contained in memo no. 125P dated 24.08.18 issued by respondent no.2/4 with respect to petitioners wherein rejecting the claim of approval of service of petitioners on the post of teacher in Ram Karan Thakur Project Balika Uchha



Vidyalaya, Imansarai, Patori, Samastipur, he has illegally, arbitrary recorded of fraud of the date of appointment of petitioners which is contrary to the records and unsustainable in the eye of law.

(ii) For directing the respondents to approve the service of petitioner with effect from 01.01.1989 alongwith consequential payment of arrear salary and up-to-date salary forthwith since arrear salary have already been paid to other three teaching and non-teaching employees of the school in question.

4. While, the Writ Petition CWJC No. 6290 of 2019 has been filed for the following relief(s):-

(1) For a direction to the respondents authorities, to absorb these petitioners on the post of Teacher serial No. 1 to 3 and Night Guard (S.No-4) in pursuant to the Resolution issued by the Education Department Government of Bihar, Patna bearing Memo No. 12/P1-18/90/98P dated 15.06.2018 (ANX-8) on the basis of order passed by the Apex Court in Civil Appeal No.6626-6675/2001.

(ii) For further direction to the concerned respondents authorities for payment of the salary since the date they are



working on the said post.

(iii) For other consequential relief/reliefs as Hon'ble Court may deem fit proper in the ends of justice.

Submission on behalf of the Counsel for the Writ Petitioner in CWJC No.- 5650 of 2019.

5. The counsel for the petitioner submits that the District Level Committee headed by the District Magistrate constituted under the Government's decision for selecting the Project School, as Project School of Phase 84-85, the recognition of the school in question was directed and the State Government's funds were allocated for better infrastructure. Bihar School Examination Board allowed the students to get the registration and In-charge Headmasters were posted by the State Government. It has next been submitted that the petitioner was appointed on the post of teacher in Sanskrit subject by the Managing Committee of the school in question in terms of its decision taken *vide* Meeting No.-21 and 22 dated 10.07.1988 and 17.08.1988 respectively and thereby, the Secretary of the School issued appointment letter on 05.08.1988 and the petitioner joined the school on 06.08.1988 and since then, working in the said school uninterruptedly, which would borne



out from the document appended as Annexure-1 series to the writ petition.

6. It is next submitted that in between the year 1987 to 1994, pursuant to the selection by the District Level Committee, the District Education Officer, Samastipur (Respondent No.-5) wrote various letters to grant approval to the said school as project school and from letter No.- 281 dated 09.03.1991 (Annexure-2), it would transpire that the name of this petitioner figures at serial no. 7 indicating the date of appointment as 25.03.1991, which is evidently an error and contrary in terms of documents appended as Annexure-1 series.

7. The counsel for the petitioner has submitted that pursuant to the grant of recognition of the School by the State Government in light of the orders passed by the Hon'ble Courts, the State Government on 15.06.2018 issued notification as contained in Memo No.- 98P granting approval of the services of Teacher/Non-Teaching staff with effect from 01.01.1989 and taking over the school as project school of 1984, which is appended as Annexure-5 to the writ petition. On 30.06.2018, in compliance of the letter issued by the Director, Secondary Education (Respondent No.2), Regional Deputy Director, Darbhanga and District Education Officer, submitted



enquiry report, after having conducted the spot verification enclosing the list of teachers/non-teaching staffs of the school in question, where the name of the petitioner finds place at Serial No.7 reflecting the date of appointment as 05.09.1988 and dated of joining being 06.08.1988 and in the status column, the petitioner is shown to be continuously in service.

8. It has next been submitted that the Director, Secondary Education(Respondent No.2) *vide* office order dated 04.07.2018 without assigning any reason came out with an office order granting approval only to the services of the petitioners of CWJC No. 18887 of 2008 and two other non-teaching staffs, who had filed contempt petition, by paying their arrears of salary with consequential benefits w.e.f. 01.01.1989 and without affording any opportunity to the petitioners, Respondent No.2 issued impugned order dated 24.08.2018 rejecting the claim of the petitioner, whose name appeared at Serial No.5, ignoring the other supportive material on record and against the settled principles of law.

**Submission of counsel for the petitioner in
CWJC No. 6290 of 2019.**

9. Learned counsel for the petitioners submits that the petitioner no.1, Pranita Kumari, who was appointed as



Assistant Teacher in History subject on 24.12.1992 and joined the said school on 30.12.1992 and since then discharging her duties on the post. Petitioner No. 2, Shiv Kumar Singh was appointed as an Assistant Teacher of Mathematics on 24.12.1993 and he joined the school on 30.12.1993 and since then he is also discharging his duties in the said school. Petitioner no.3, Shabnam Kumari was appointed as Assistant Teacher in the subject of English on 07.11.1995 and she joined on the same date itself in Ram Karan Thaur Girls High School, Iman Sarai, Patori, District-Samastipur and discharging the duties on the post, and similarly, petitioner no.4, Prabhat Kumar was appointed as a Night Guard on 20.12.1992 in the same school and joined on 24.12.1992 and since then he is discharging his duty in the said school.

10. It has next been submitted that all these petitioners joined the said school on different dates and are continuously and regularly discharging their duties in the same school. These petitioners are said to have made their representations before the Respondents-authorities in terms of Circular dated 15.06.2018 mentioning therein that the entire criteria is being fulfilled by them and their cases should be considered to provide in accordance with aforementioned



resolution.

11. Learned counsel for the petitioners, by referring to the order passed by the Co-ordinate Bench of this Court on 20.12.2013 in ***CWJC No. 18887 of 2008 (Ranjana Kumari v. The State of Bihar & Ors)*** submits that the respondents were directed to recognize the petitioners' school as Project School for all purposes and accordingly, the Letters Patent Appeal No. 1754 of 2015 preferred by the State Government was also dismissed by Hon'ble Division Bench holding that the entire action was undertaken by the District Administration on the basis of powers delegated to them and the writ Court Judgment and Order does not suffer from any error and legal infirmities.

12. It has further been submitted that the State Government further challenged the order passed in the Letters Patent Appeal No. 1754 of 2015 before the Hon'ble Apex Court *vide* Special Leave Petition (Civil) Diary No (s). 3386/2018 which also stood dismissed on 23.03.2018.

13. It is in this background, the State Government came out with a policy decision as contained in Memo No. 98P dated 15.06.2018, whereby, it was resolved that in view of the parameters prescribed by the Hon'ble Apex Court



in Civil Appeal No. 6626-6675 of 2021, the services of teaching and non-teaching staffs would be recognized, who would be fulfilling the criteria fixed therein and despite representation having been made by these petitioners to consider their case in terms of the resolution of the State Government dated 15.06.2018, their cases are not being considered.

**Submission of counsel for the petitioner in
CWJC No. 6684 of 2019.**

14. Counsel for the petitioner submits that the Petitioner, Kumkum Kumari was appointed on the post of Teacher in the subject of Home Science by the Managing Committee of the school in terms of its meeting No.-21 and 22 dated 10.07.1988 and 17.08.1988 and thereby, the Secretary of the school issued appointment letter on 05.08.1988 and the petitioner joined on 07.08.1988 and since then working in the said school uninterruptedly. For unexplained reasons, the claim of the petitioner was not considered and only the case of the Petitioners of CWJC No. 18887 of 2008 and two other non-teaching staffs were approved by the respondents by paying their arrears of salary w.e.f. 01.01.1989. It has next been submitted that without affording any opportunity of hearing to the petitioner, Respondent No.2 issued the impugned Order on



24.08.2018 rejecting the claim of approval of services of the petitioner at Serial No. 6 recording their date of appointment as 05.08.1988, while in the report prepared by the District Education Officer, Samastipur in 1991, the name of the petitioner is said to have not been included in the list of Teachers submitted by the Secretary of the school and on that basis, her appointment is said to be forged and fabricated while the name of the petitioner finds place in the list prepared by the District Education Officer, Samastipur in the year 2018, contained in letter no. 230 dated 30.06.2018.

**Submission on behalf of the Counsel of Writ
Petition being CWJC No.- 5189 of 2020.**

15. Learned counsel for the petitioners submits that petitioners No.- 1, 2 and 3 were appointed by the Managing Committee of the school on the post of teachers in Mathematics, Physics, History and English subjects respectively. All the three petitioners submitted their joining on the opening day of the school and from the status report sent by the District Education Officer, Samastipur to the school indicates the name of all these petitioners working as Teachers/Employees of the school by placing their names at Serial No. 2, 4 and 3, which would borne out from Annexure-7 of the writ application. The Secretary of



the School *vide* Annexure-9 appended with the writ petition issued a list of Teaching and Non-teaching Employees, in which the name of the petitioners finds place at Serial Nos. 3, 4 and 5 respectively. On 02.12.2007, the Secretary of the School issued show-cause to the petitioner No.-2, who submitted his show-cause through registered post. The petitioner No.-1 is said to have retired in the month of January, 2018, while petitioner no. 2 got retired in the month of February, 2016 and similarly, the petitioner no. 3 got superannuated in the month of September, 2010. In view of the order passed by the Hon'ble High Court in CWJC No. 1887 of 2008 dated 20.12.2013, against which an Appeal preferred by the State Government being Letters Patent Appeal No.- 1754 of 2015 having been dismissed and further SLPs preferred against the order passed by the Hon'ble Division Bench, also having been dismissed, the State Government granted recognition to the school in question, where these petitioners are said to have discharged their duties.

16. It has next been submitted that District Education Officer submitted a wrong report prepared on the basis of forged and fabricated document questioning their appointments which would borne out from the fact that the report dated 30.06.2018 appended as Annexure-14 to the writ



petition is contrary to its earlier report dated 09.04.1991 appended as Annexure-7 to the writ petition issued by the same authority i.e., the District Education Officer, Samastipur.

17. It has next been submitted that the report dated 30.06.2018 (Annexure-14) is also contrary to the status report dated 20.05.2007 appended as Annexure-9, to the writ petition issued by the Secretary of the then Managing Committee of the School. The services of only three employees of the school were culled out on pick and choose basis, which are said to have been approved *vide* Annexure-15 of the writ petition and further *vide* order dated 24.08.2018 (Annexure-1 to the writ petition), the grievances/claims of the petitioners were rejected, which is impugned in this case.

18. Learned counsel for the petitioners further submits that the impugned order would go to show that while rejecting the claim of the petitioners, a report dated 30.06.2018 (Annexure-14 to the writ petition) was relied upon and unilaterally, without causing any explanation or show cause to the petitioners, their appointments have been found to be based on forged/manipulative documents and no hearing of any kind known to law was ever afforded before arriving to the conclusion, which findings have also been incorporated in the



impugned order and therefore, the action of the respondents being illegal, arbitrary deserves to be interfered with for the ends of justice.

19. In CWJC No. 5650 of 2019, CWJC No. 6684 of 2019 and CWJC No. 5189 of 2020, all these petitioners have approached this Court challenging the office order dated 24th August, 2018 passed by the Director, Secondary Education, Bihar, Patna holding *inter alia* in the case of some of the petitioners, that they were absent unauthorizedly and therefore, they are not entitled to get any financial benefit even though they were in service since the date of taking over. Whereas, in some of the cases despite having recognized the services with effect from the cut-off date, still by misreading the resolution, they have not been found to be entitled to get any benefits of payment and other consequential allowances, after the said school have been declared as Project School of the Government on the basis of decision taken by the Bihar State Cabinet on 15th June, 2018.

20. It is evident from the fact that this Court in ***CWJC No. 18887 of 2008*** directed the State Government to treat the school, where these petitioners used to work on the post of Assistant Teachers as Project School for all purposes but the



State Government preferred an appeal before the Division Bench of this Court being **LPA No. 1754 of 2015** which stood dismissed on contest and subsequently, the order of the Appellate Court was challenged before the Hon'ble Apex Court through **Special Leave Petition (Civil) Diary No. 3386/2018** which also stood dismissed.

21. Thus, in view of the affirmation by the higher courts, the order passed by the Co-ordinate Bench in **CWJC No. 18887 of 2008** reached to its finality and pursuant thereof, the State Government through the Education Department passed the following Order: -

“4) माननीय उच्च न्यायालय, पटना के एकल पीठ के निर्णय के विरुद्ध विभाग की ओर से दायर एल0पी0ए0 संख्या-1745/2015 एवं एस0एल0पी0 संख्या/2018 (डायरी संख्या-3386/2018) को माननीय न्यायालय द्वारा खारिज किये जाने के उपरान्त रामकरण ठाकुर बालिका उच्च विद्यालय इमनसराय, पटोरी, जिला-समस्तीपुर को वर्ष 1984-85 चरण के नवसृजित परियोजना विद्यालय के रूप में स्थापित संचालित करने हेतु विद्यालय के लिए दिनांक-01.01.1989 के प्रभाव से 01 (एक) प्रधानाध्यापक 08 (आठ) सहायक शिक्षक 01 (एक) लिपिक एवं 02 (दो) परिचारी के पदों के सृजन के संबंध में प्रशासी पद य समिति द्वारा की गयी अनुशंसा पर दिनांक -05.06.2018 को आहूत मंत्रिपरिषद् की बैठक में



मेद संख्या-28 में मंत्रिपरिषद् की स्वीकृति के आलोक में रामकरण ठाकुर बालिका उच्च विद्यालय इमनसराय, पटोरी, जिला समस्तीपुर को वर्ष 1984-85 चरण के परियोजना विद्यालय के रूप में स्थापित / संचालित करने एवं दिनांक- 01.01.1989 के प्रभाव से शिक्षक/ शिक्षकेत्तर कर्मियों की सेवा मान्यता उनके वेतनादि के भुगतान की। स्वीकृति पर सरकार द्वारा निर्णय लिया गया है। तदनुसार माननीय उच्च न्यायालय, पटना के आदेश के आलोक में मंत्रिपरिषद् की स्वीकृति से निम्नांकित कार्रवाई करने का निर्णय लिया जाता है:-

वर्ष-1984-85 चरण के परियोजना विद्यालयों के संबंध में माननीय उच्चतम न्यायालय के द्वारा सिविल अपील संख्या-6626-6675/2001 में निर्धारित मापदंडों के अधीन इस विद्यालय के शिक्षक एवं शिक्षकेत्तर कर्मी सेवा की मान्यता हेतु स्वीकृति मापदंड को पूर्ण करते हैं।

आदेश - आदेश है कि सर्वसाधारण की जानकारी के लिए इसे राजकीय गजट में प्रकाशित किया जाय और इसकी प्रति महालेखागार, बिहार, पटना/ निदेशक (माध्यमिक शिक्षा) एवं शिक्षा विभाग के सभी पदाधिकारियों एवं सभी अधीनस्थ कार्यालयों को प्रेषित की जाय। “

22. The above decision clearly shows that the school, where these petitioners used to work as Teaching and



Non-Teaching staff was treated as a project school w.e.f 1st of January, 1989. It is also not in dispute that some of the petitioners have been working in the said school prior to the recognition as project school by the State Government w.e.f. 01.01.1989. Still, the concerned authority did not consider the petitioners' claim for financial benefits and other consequential reliefs on the basis of decision of State Cabinet notified through the department of Education, Government of Bihar dated 15.06.2018 on the ground that the said school was recognized as Project School since 01.01.1989 and therefore, the cut-off date so given operates as a bar from consideration of their cases who were appointed after the cut-off date, is wholly misconceived.

23. The findings which are said to have been recorded in the impugned order by holding some of petitioners to be absent or to be working after recognition of the said school as Teacher of project school w.e.f 01.01.1989, the petitioners of such classified groups were heard before passing the order of termination by the then management is not forthcoming from the stipulation made in the impugned order, and unilaterally, such decisions is said to have been recorded in the impugned order, while from the report of District Education Officer, Samastipur dated 30.06.2018 appended as Annexure-6, which is



contained in Letter No.- 230 dated 30.06.2018, it would transpire that the petitioner, namely, Ramchandra Chaudhary was appointed on 02.01.1984 as Physical Teacher, submitted his joining on 02.01.1984, petitioner No.-2, Ram Kishore Singh was appointed in the subject of History on 02.01.1984, submitted his joining on the same date, Petitioner No.-3, Chandralekha Kumari was appointed on 02.01.1984 in the subject of English, she also joined on same date, Chandravadan Prasad Singh was appointed on 05.08.1988 and joined on 06.08.1988 in the subject of Sanskrit, Kumkum Kumari was appointed on 05.08.1988 and joined on 07.08.1988 in the subject of Home Science/History, Pranita Kumari was appointed on 24.12.1992 and joined on 30.12.1992 in the subject of History, Shiv Kumar Singh, was appointed on 24.12.1993 and joined on 30.12.1993 in the subject of Mathematics, Shabnam Kumari, was appointed on 07.11.1995 and joined on the same date in the subject of English, Prabhat Kumar was appointed on 20.12.1992 and he joined on 24.12.1992 as Night Guard. With respect to Pranita Kumari, Shiv Kumar Singh, Shabnam Kumari, Prabhat Kumar and others, they have been found to be working in the said school on the date of such inspection as per report prepared by the District Education Officer, Samastipur in



the year 2018.

24. From perusal of the impugned letter No.- 125P dated 24.08.2018, it is not forthcoming that these petitioners were given hearing at any point of time before issuance of impugned order, whereby their claims of approval of services on the post of teacher in respective subjects in Ram Karan Thakur Project Balika Uchha Vidyalaya, Imansarai, Patori, Samastipur have been rejected on the ground that they obtained their appointment on the basis of forged documents.

25. The counter affidavit filed by the respondents in all these writ petitions, the factum of violation of principles of natural justice before taking impugned decision has not been disputed by any of the respondent's counsel referring to the stand taken in their responses filed in the respective writ petitions. The fact that all these petitioners were very much in service in the said school which was later on, recognized as a Project School in the year 2018 from a retrospective date, is an undisputed fact, which needs consideration in law.

26. The Resolutions of the Government do entitle them to receive financial benefits of the Project School relating to their salary and pensionary benefits as per extant rules for the period during which they are said to have



discharged their duties validly, as is evident from the reports appended with the writ petitions in their respective petition kept in Letter No.- 230 dated 30.06.2018, which do recognize their services in the said school but the impugned letter by which the services are said to have not been recognized prior to the cut-off date in the case of some of the petitioner is apparently contrary to the reports prepared by the respondents themselves. Furthermore, the impugned letter which recognizes their services even after cut-off date for which the respondents cannot be allowed to refuse payment of salary of Project Teacher, as the same is contrary to their own policy decision dated 15.06.2018 and the judgment and orders passed by a co-ordinate bench of this Hon'ble Court passed in ***CWJC No.-4786 of 2020 (Veena Kumari versus The State of Bihar & Ors.)*** and ***CWJC No.-11928 of 2015 (Lal Bahdur Rai versus The State of Bihar & Ors.)***, where the Hon'ble Court has held that since the name of these petitioners finds place in the list prepared by the authority concerned and they have been found to be in service prior to the date of taking over of the school as project school and the decisions of the State Government do provide for all consequential benefits from the date of its recognition and accordingly, the petitioners of the aforesaid writ petitions were



allowed the said benefits for the period they remained in service.

27. The Other grounds for rejecting the claim of the petitioners, which is incorporated in the order impugned dated 24.08.2018 holding the respective petitioners to be absent from the duties unauthorizedly and during the course of hearing additionally, the respondents submitted that the writ petition should not be entertained due to delay and laches in approaching this Court. The first ground of unauthorized absent leading to termination of services by the managing committee as indicated in the impugned order with respect to some of the petitioners does not indicate that the aggrieved petitioner before issuance of termination order were heard following Principles of Natural Justice and therefore, the said issues are left open, to be agitated by the aggrieved petitioners at appropriate forum provided the factum of termination of their services, so recorded in the impugned order, are found to be correct and based on record. But, in so far, with regard to the payment of salary of all these petitioners are concerned, as against the period they remained in service, the ground of delay and laches are not acceptable for the simple reason that the cause of action for filing the writ petitions only accrued in favour of these petitioners, after the impugned order



was passed and the disputes with respect to their services have been raised without adhering the principles of natural justice and therefore, the grounds raised to hold the writ petitions to have vitiated in law on the ground of delay and laches, cannot be accepted and is accordingly, rejected.

28. In view of the above, since, it is not in dispute that these petitioners have worked in the School either in the teaching cadre or in the non-teaching cadre in respective capacities, while some of them have worked even prior to the cut-off date i.e., 01.01.1989, and some of them have been appointed after the cut-off date, but from the records of different writ petitions including the stand taken therein, the fact remains that these petitioners were much in service before the recognition having been granted by the State Government i.e., on 24.08.2018 and the reasons assigned to deny the benefits is apparently in breach of the objectives stipulated in the Resolution issued by the state Government.

29. Since these petitioners have worked between these periods i.e from 01.01.1989 to 24.08.2018 with full sincerity and diligently and their services rendered during the period, which is duly recognized by the respondents themselves during the spot verification carried out in the year 2018 itself,



just before granting recognition to the said school as a Project School. In such view of the matter, the entitlement of these petitioners to the financial benefits and other consequential benefits as an Employee of Project School either in the capacity of Teaching or Non-teaching employees cannot be denied and accordingly, the Impugned Letter as contained in Memo No.-125P dated 24.08.2018 being common in CWJC No.-5650 of 2019, CWJC No.-6684 of 2019 and CWJC No.-5189 of 2020 are absolutely unsustainable and the decision of the respondents' authorities in not accepting the claim to grant financial benefits is wholly unjustified.

30. In view of the above, the claim of the writ petitioners of CWJC No.-6290 of 2019, who are also said to be appointed after the cut-off date i.e., 01.01.1989 and have continuously been discharging their duties are also entitled to regularization as against the posts, which are said to be vacant as their cases are covered by the judgment rendered by Hon'ble Division Bench in ***LPA No. 145 of 2015 (Yugal Kishore Ray v. The State of Bihar & Ors)*** wherein the directions have been issued to absorb the appellant of the aforementioned appeal who was already in service as against the posts, which was said to be created w.e.f. 04.02.1989, while in the instant case, the posts



against which the petitioners are said to be working are vacant but for unexplained reasons the absorption has not been done in their favour.

31. An employee is entitled to get financial benefits with all protection during his/her services till the date of continuation on their respective posts. When the Education Department declared the concerned school as a Project School with retrospective effect, the teacher and non-teaching staffs who had been working during the said period becomes entitled to get benefits of such period. From the material on record, this Court is of the opinion that as per the resolution dated 15.6.2018, it is very clear, insofar as it clearly stipulates that the school is taken over with effect from 1.1.1989 with all consequential monetary benefits being payable to the employees and admittedly, it is also not in dispute that the name of the writ petitioners of CWJC No.-5650 of 2019, CWJC No.-6684 of 2019 and CWJC No.-5189 of 2020 do figure in the list of the employees found to be working by the respondents as would be evident from various list prepared like of the year 1991 by the then District Education officer, Samastipur and finally in the year 2018, by the then District Education officer, Samastipur in compliance of direction and order passed by the Co-ordinate



Bench. Thus, in the opinion of this Court, the rejection of their case for monetary benefits and pensionary benefits on ground that some were appointed after the date of takeover of their school as project school retrospectively or had already retired before the date of consideration of their cases and in the case of some of the petitioner, their services were terminated owing to their unauthorized absence found by the then Managing Committee are not sustainable in law and deserves to be interfered with, in order to protect the Constitutional rights of these petitioners.

32. Since these petitioners have worked during the period while the school was not recognized as a Project School and it was only recognized in the year 2018 retrospectively and therefore, the past service including the present services of the respective petitioners are required to be recognized for the purpose of grant of financial benefits and accordingly, their claims deserves to be considered in true perspective so that the interest of these teachers, who have been serving with the school prior to the recognition as Project School or after the recognition, are not prejudiced in any manner.

33. From the records, it appears that the report



prepared by the District Education Officer, Samastipur as contained in letter no. 230 dated 30.06.2018 in which altogether 15 teaching and non-teaching staffs are shown to be working on 28.06.2018, out of which, the services of five teaching and non-teaching staffs have been approved, as such, the contention of the Respondents that in the said report there is a manipulation is wholly misconceived and unacceptable and therefore, the determination of the rights of these petitioners are required to be made in similar terms to that of the other five teaching and non-teaching staffs, which are said to have been made by the Respondents themselves by issuing office order as contained in Memo No. 105 dated 04.07.2018, which is appended as Annexure-7 Series to the writ petition being CWJC No. 5650 of 2019. The State authorities being modal employer cannot be allowed to approbate and reprobate at the same time and the documents are required to be read as whole for the purpose of determining the rights of all the similarly situated persons.

34. In view of the above discussions, the impugned letter as contained in Memo No.-125P dated 24.08.2018 appended with the aforesaid writ petitions, is set aside and the following directions are being issued:-

Directions with respect to the petitioner of



CWJC No.-5650 of 2019:-

35. Since the report dated 30.06.2018 prepared by the District Education Officer, Samastipur in compliance of direction issued in CWJC No. 18887 of 2008 has already been acted upon, as five persons out of the list of 15 teaching and non-teaching staffs shown to be working in the said school, whose services have been approved and consequential benefits have been granted and the name of this petitioner finds place at serial no.6 showing his joining on 06.08.1988 and the document appended with the supplementary counter affidavit showing his deputation lastly been made and relieved to join the school on 11th of April, 2020 which has not been confronted by any of the respondents either through any counter affidavit or otherwise, therefore, this petitioner is also entitled to his salary and other consequential benefits from 06.08.1988 to 11th April 2020.

36. In view of the above, this Court is of the opinion that the deputation could have only been made by the Bihar School Examination Board, when the petitioner would have been found to be serving in the said school and therefore, the stand of the respondent that there is a manipulation in the date of appointment is wholly unacceptable and, therefore, this Court is of the view that at least from the date of first deputation



by the Bihar School Examination Board which is an uncontroverted document, from which date the petitioner is required to be recognized as a teacher serving in the said school and is entitled for payment of salary with all the consequential benefits till the date of relieving i.e., 11.04.2020. considering the aforesaid facts, this Court by treating the petitioner to have retired in the month of April on 30.04.2020, accordingly, directs the respondents to pay all consequential benefit to the petitioner from 01.01.1989 to 30.04.2020 within a period of four months from the date of communication/receipt of a copy of this order.

**Directions with respect to the petitioners of
CWJC No. 6290 of 2019.**

37. In this writ petition, there are altogether four petitioners out of which petitioner no.1, Pranita Kumari who is said to be working since 24.12.1992 as Assistant Teacher against the sanctioned post. Petitioner No. 2, Shiv Kumar Singh was appointed as an Assistant Teacher of Mathematics and is working on the said post since 30.12.1993 as against the sanctioned post. Petitioner no.3, Shabnam Kumari was appointed as Assistant Teacher in the subject of English on 07.11.1995 and she joined on the same date itself and since then working in Ram Karan Thaur Girls High School, Iman Sarai,



Patori, District-Samastipur as against the sanctioned post and similarly, petitioner no.4, Prabhat Kumar was appointed as a Night Guard on 20.12.1992 in the same school and joined on 24.12.1992 as against the sanctioned post and since then he is discharging his duty in the said school. Undisputedly, the appointments of all these four petitioners are said to have been made after the school was taken over under the decision of the State Government from the retrospective date on 01.01.1989 and since the petitioners are working till today, the authorities are required to pay salary attached to the post by absorbing them against the vacant sanctioned post in terms of Judgment and order passed in LPA No. 145 of 2015, in similar terms from the dated of their joining as indicated aforesaid on the respective posts.

**Directions with respect to the petitioner of
CWJC No. 6684 of 2019.**

38. From the report prepared by the District Education Officer, Samastipur dated 30.06.2018 in compliance of direction issued by the Co-ordinate Bench in CWJC No. 18887 of 2008 and based on such report, three persons are said to have been granted approval of service with consequential benefits w.e.f. 01.01.1989, who were petitioners of the said writ



petition and two others, just to get themselves absolved from the contempt proceeding initiated *vide* MJC No. 422 of 2015. Since the name of the petitioner also appears at serial no.7 of the said list and is shown to be working since 07.08.1988 and has obtained B.Ed training between 16.08.1991 to 09.04.1992 and thereafter, she is said to have resumed her work on the post of teacher, as such, this petitioner is also entitled to salary from 01.01.1989 till the date of issuance of impugned order dated 24.08.2018 and treating the petitioner to have retired on this date in terms of Hon'ble Apex Court's order passed in Civil Appeal No(s) 7841 of 2011 in the case of Man Singh v. The State of Uttar Pradesh as reported in 2022 SCC OnLine 726. accordingly, the Respondents no.2 and 5 are directed to pay salary with all consequential benefit to this petitioner from 01.01.1989 to 30.08.2018.

**Directions with respect to the petitioners of
CWJC No. 5189 of 2020.**

39. From the impugned order it is evident that the only ground which has been taken by the respondents that their appointments were made after the cut-off date i.e., 04.02.1989 and the factum of his being in service after 01.01.1989 is an undisputed fact, therefore, in terms of the



resolution whereby the taking over of the school was done retrospectively and these petitioners, who have been found serving in the said school after the school was taken over, are also entitled to salary till the date of superannuation, which in the case of petitioner no. 1, is said to have superannuated in the month of January, 2018, while the petitioner no.2, is said to have been retired in the month of February, 2016 and similarly, the petitioner no. 3 who is said to have superannuated in the month of September, 2010. As such, this Court holds that Petitioner no.1 is entitled to all consequential benefits from 04.02.1989 till 31st January, 2018, Petitioner no.2 is entitled from 04.02.1989 to 28th February, 2016 and similarly Petitioner no.3 is entitled from 04.02.1989 to 30th September, 2010 in terms of Resolution dated 15.06.2018.

40. In view of the aforesaid, all the four writ petitions being CWJC No. 5650/2019, CWJC No. 6290/2019, CWJC No. 6684/2019 and CWJC No. 5189/2020 are allowed and the respondents no. 2 & 5 are directed to grant all financial benefits as is applicable in terms of Resolution dated 15.06.2018, to all the petitioners who are in service and salary with all consequential and pensionary benefits to those, who have superannuated from service by calculating their services in



terms of direction issued within a period of four months from
the date of production/receipt of a copy of this order.

(Ajit Kumar, J)

perwez

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CAV DATE	16.09.2025
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