

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5239 of 2023

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1. Niranjan Kumar Sharma Son of Anuplal Sharma Resident of 9/D, Bokaro Steel City, Sector-LX, Bokaro, District- Bokaro (Jharkhand), At present Resident of CMS High School, Shahpur, P.S.- Amarpur, District- Banka.
 2. Surendra Kumar Son of Jay Prakash Sah Resident of Village- Sitachak, Post- Motanga, P.S.- Panjwara, District-Banka
 3. Vijayant Kumar Singh Son of Shivpujan Prasad Resident of Village- Gulni Kushaha, Post- Gulni Kushaha, P.S.- Shambhuganj, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Joint Secretary, Department of Education, Government of Bihar, Patna.
3. The Director Primary Education, Government of Bihar, Patna.
4. The District Magistrate Banka, District-Banka
5. The District Education Officer, Banka, District-Banka.
6. The District Programme Officer, Banka, District-Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pankaj Kr. Sinha, Adv. Mr. Kumar Mritunjay, Adv.
For the Respondent/s	:	Mr. Kameshwar Kumar (Gp17)

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

8 18-11-2025 Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

relief(s):-

*“(i) For that this writ application is
being filed for quashing the Memo No. 1229
dated 29.11.2016 whereby the Director, Primary*



Education, Govt. of Bihar has issued letter to the District Education Officer, Banka and District Programme Officer (Establishment) Banka directing them not to give promotion to the Physical trained teachers on the post of Principal.

(ii) It is further pray that the respondent authorities may be direction to give seniority of these petitioners on the basis of their joining date and qualification of trained physical teachers.”

3. Learned counsel appearing on behalf of the petitioner submits that the petitioners were appointed as a physical trained teachers in the year 2007 on the basis of Shiksha Niyukti Niyamavali, 2006 and are continuing to work as on date. Learned counsel submits that the Director, Primary Education, Government of Bihar, Patna issued a letter vide memo No. 1229 dated 29.11.2016 (impugned in the present writ petition) directing the District Education Officer, Banka and District Programme Officer (Establishment) Banka not to give promotion to the said physical trained teachers to the post of Principal. Learned counsel submits that the said letter is issued by the Director, Primary Education without any jurisdiction and contrary to the judgment of this Hon'ble Court passed in C.W.J.C. No. 1820 of 2018 dated 02.09.2019 and other



instructions issued by the Government of Bihar. Learned counsel submits that the I.C.S. Secretary to the Government of Bihar, Education Department has issued instructions to the Director of Public Instruction, Bihar vide letter no. V/P4/07/55E-1471 dated 27.05.1955 mentioning that a graduate holding a diploma in physical education should be treated as trained graduate in the matter of salary emoluments and in promotion on the post of Headmasters. Thereafter, the Director-cum- Joint Secretary, Department of Education, Government of Bihar had also issued a letter to the District Education Officer, Patna vide letter no. 6066 dated 24.11.1986 clearly mentioning that the physical education teachers are entitled to equal pay scale payable to the general trained teachers and that the physical education teachers are also entitled to the post of Principal in school like a general trained teacher. That there are no rules, regulations or provisions which create an embargo on physical education teacher from getting promoted to the post of Principal. Further the petitioners are getting salary on par with the general trained teachers. However, the authority without considering the above instructions has issued the letter dated 29.11.2016 impugned in the present writ petition. Learned counsel submits that this Hon'ble Court under similar



circumstances in C.W.J.C. No. 1820 of 2018 vide order dated 02.09.2019 has allowed the writ petition filed by similarly situated persons like that of the petitioners and held that the petitioners who were appointed as physical trained teachers are also entitled to the same pay scale and other benefits as general trained teachers for all practical purposes. Learned counsel, therefore, seeks a similar direction from this Hon'ble Court.

4. *Per contra*, the learned Government Pleader appearing on behalf of the respondent State has vehemently opposed the very maintainability of the present writ petition. Learned counsel submits that the petitioners who are physical trained teachers are appointed only for the purpose of giving physical education in school and act as Instructors and they cannot be treated on par with the general trained teacher. It is further stated that the petitioners do not get a scale equivalent to the trained graduate teachers and therefore they cannot be promoted as Headmasters of the School and, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. This Court in C.W.J.C. No. 1820 of 2018 vide order dated 02.09.2019 has held as under:

“6. In view of the discussions made herein above, the Court has absolutely no hesitation in holding that the petitioners were appointed as trained teachers are entitled to trained scale and



other benefits as trained teacher for all practical purposes.

7. Accordingly, the order as contained in Annexure-5 shall not apply in the case of the petitioners, who were appointed in terms of 2006 Rules, which recognizes the petitioners as trained teachers.

8. Necessary decision granting promotion as graduate trained scale or Headmaster may be taken by the concerned respondent at the earliest preferably within a period of four months from the date of receipt/production of a copy of this order treating the petitioners as trained teachers with all consequential benefits.”

6. Learned counsel for the petitioner submits that the said order has become final and the petitioners in the said writ petitions have already been given the benefits of the said order. It is to be noted that there is nothing on record to controvert the above made statement. Neither the counter affidavit nor the impugned letter dated 29.11.2016 quote under what provision of law the said letter has been issued. Having regard to the same, the petitioners are also entitled to trained scale and other benefits as a trained teacher for all practical purposes and the order dated 29.11.2006 vide memo no. 1229 issued by the Director, Primary education, Government of Bihar shall not apply to the case of the petitioners. The authority shall



take a necessary steps for granting promotion to the petitioners herein as graduate trained scale or Headmaster as the case may be at the earliest preferably within a period of twelve weeks from the date of receipt of the copy of this order. The authority shall treat the petitioners as trained teachers with all consequential benefits.

7. With the aforesaid directions, the writ petitions stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

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