

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12452 of 2017

1. Kumar Anil Singh and Ors S/o Sri Ramji Singh, R/o VillagePOPS- Kudra, Presently posted as Assistant Teacher at Middle School, Jahanabad, P.O.P.S.- Kudra, District- Kaimur.
2. Chandra Bhushan Tripathi, S/o Kamlakant Tripathi, R/o Village- Rampur, Post- Oathar, P.S.- Sonhan, District- Kaimur, Presently posted as Assistant Teacher at Middle School Oathar, Block- Bhabhua, District- Kaimur.
3. Ram Bachan Ram, S/o Sri Kedar Ram, R/o Village- Bairi, P.O.- Dadar, P.S.- Mohania, District- Kamiur, Presently posted as Assistant Teacher at Primary School, Ghoghiyan, P.O.- Kaudiram, P.S.- Mohania, District- Kaimur.
4. Ashok Kumar Tiwari, S/o Late Krishna Tiwari, R/o Gali No.4, Kanserva Fazalganj, P.O.P.S.- Sasaram- District- Rohtas, Presently posted as Assistant Teacher at Primary School Jahanabad Hindi, Kudra, District- Kaimur.
5. Dadan Kumar Singh, S/o Sankatha Singh, R/o Village- Betari, P.O.P.S.- Bhabhua, District- Kaimur, Presently posted as Assistant Teacher U.M.S. DumDum, Block- Bhabhua, District- Kaimur.
6. Akhilesh Kumar Pankaj, S/o Bharat Prasad, R/o East Bus Stand Shichhak Sadan, Ward No.-25, Pin- 821101, Presently posted as Assistant Teacher at Middle School Odar, Village- Odar, P.S.- Sonhan, Block- Bhabua, District- Kaimur.
7. Chandra Shekhar Singh, S/o Nand Kishore Singh, R/o Village- Baruna, P.O.- Manihari, P.S.- Bhabhua, District- Kaimur, Presently posted as Assistant Teacher at U.M.S. Baruna, Block- Bhabhua, District- Kaimur.
8. Tej Bahadur Gupta, S/o Ram Krit Gupta, R/o VillageP.O.- Rampur, P.S.- Rajpur, District- Buxar, Presently posted as Assistant Teacher at U.M.S. Baddha, Block- Nuawn, District- Kaimur.

... .. Petitioners

Versus

1. The State Of Bihar
2. The Director Primary Education, Education Department, Government of Bihar, Patna.
3. The Regional Deputy Director of Education, Patna Division, Patna.
4. The District Education Officer, District- Kaimur.
5. THE District Program Officer Establishment, District- Kaimur.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Avanindra Kumar Jha, Advocate
	:	Mr. Bishwash Vijeta, Advocate
	:	Mr. Ram Naresh Jha, Advocate
For the Respondent/s	:	Mr. Ashutosh Ranjan Pandey, Aag15
	:	Mr. Prabhat Ranjan Singh, AC to AAG-15



CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

5 20-11-2025 Heard learned counsel for the petitioners and learned
counsel for the Respondent-State.

2. The petitioners in the present writ application have
prayed for the grant of following reliefs:-

“i.) To hold and declare that, in view of the directions issued in the Paragraph No. 30, of the Judgment dated 23.09.2010 in L.P.A. No. 412 of 2003 (reported in 2010 (4) PLJR 732), and its modification by order dated 08.08.2012 in MJC No. 4075 of 2011, the petitioners are entitled for being granted Protection of their Seniority with all consequential benefit on account of their Seniority. Hence, the respondents concerned of the Department of Education are obliged to fix the date of grant of Matric Trained Scale to the Petitioners' in such a manner and from such date that, the seniority of the petitioners shall not be adversely affected.



ii) To hold and declare that in view of the settled principles of law, the Seniority of the Petitioners shall be reckoned from the date of appointment / as per the Merit List prepared by the BPSC, and further Seniority of the petitioners cannot be taken away either by arbitrary retrospective operation of Bihar Elementary School Teachers Promotion Rules 2011 (hereinafter referred as 'Promotion Rules 2011), or by arbitrarily fixing the date of grant of Matric Trained Scale of Pay w.e.f. 31.07.2007.

iii.) To hold and declare that, in view of the Rule 7 and other relevant provisions contained in Promotion Rules 2011, the petitioners are entitled for being granted Time Bound Promotion of Grade Pay (4600/-), w.e.f. 17.11.2011 AND/OR in view order dated 08.08.2012 in MJC No. 4075 of 2011, (as a matter of consequential benefit of the said order), the petitioners are



entitled for being granted Time Bound Promotion of Grade Pay (4600/-), at least w.e.f. the date their Juniors have been granted Time Bound Promotion of Grade Pay (4600/-). AND CONSEQUENT UPON SUCH DECLARATION i.) For issuance of an Order / Direction or a Writ in nature of Certiorari for quashing the Clause No. 4 (iii), of the State Govt. Resolution (Sankalp), as contained in Memo No. 7/Ve. 14/2007.... 12 dated 05.01.2015, (Annexure.7), whereby and where under the authorities concerned of the State Govt. in its Education Department, in complete contravention of the directions issued by this Hon'ble Court in its orders dated 23.09.2010 in L.P.A. No. 412 of 2003 R/W order dated 08.08.2012 in MJC No. 4075 of 2011, have decided to grant Matric Trained Scale of Pay to the Petitioners (and other similarly situated persons),



w.e.f. 31.07.2007. which takes away the seniority of the petitioners.

ii.) For issuance of an Order / Direction or a Writ in nature of Mandamus. commanding the Respondents concern to fix the date of grant of Matric Trained Scale of the Petitioners' in such a manner and from such date (at least notionally), that the Seniority of the petitioners shall not be adversely affected.

iii.) For issuance of an Order / Direction or a Writ in nature of Mandamus, commanding the Respondents concerned to grant the petitioners. Time Bound Promotion of Grade Pay (4600/-), w.e.f. 17.11.2011 OR at least w.e.f. the date their Juniors have been granted Time Bound Promotion of Grade Pay (4600/-).

iv.) For grant of any other relief / relieves to which the Petitioners may be entitled to in the eye of law in the given facts & circumstances of the present case.”



3. At the outset, learned counsel for the petitioners submits that the issue involved in the present writ application is no more *res integra* as it has already been decided by judgment and order dated 10.12.2018 passed in LPA No. 1409 of 2017 and further by a Coordinate Bench decision dated 27.05.2019 passed in CWJC No. 3727 of 2015. He further submits that pursuant to these decisions, the Government has also come out with Office Order bearing Memo No. 1594 dated 26.11.2019 followed by another Office Order bearing Memo No. 123 dated 27.01.2020.

4. A copy of the aforesaid decisions and the Office Orders were handed over to the learned counsel appearing for Respondent-State on the previous date and after going through the same, learned counsel for Respondent-State submits that the petitioners are correct in submitting that the issue involved in the present writ application is no more *res integra* and it can be accordingly decided/disposed of in light of the judgment delivered by Coordinate Bench of this Court dated 27.05.2019 passed in CWJC No. 3727 of 2015, which has attained finality as the issues stand addressed.

5. It is not in dispute that all the petitioners have been appointed after 05.09.1997, applying the policy of the State Government. Hence, they would be entitled to notional benefit



with effect from 01.10.2003 and actual benefit from the date of sitting in the second examination of the in-service Teachers Training Examination i.e., with effect from 31.07.2007 in terms of the judgment rendered by Division Bench of this Court dated 10.12.2018 passed in LPA No. 1409 of 2017 as also in terms of the Government Circular dated 05.01.2015.

6. Hence, the case of the petitioners is allowed on the aforesaid terms with a direction that they would be entitled to Matric Trained Scale with effect from 01.10.2003 on notional basis and with effect from 31.07.2007 on actual basis within a period of three months from the date of passing of this order.

(Alok Kumar Sinha, J)

Gaurav Sinha/-

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