

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7886 of 2018

=====

Shashi Bhushan Shahi Son of Late Ram Surat Shahi, Resident of Village-Angauta, POst Office-Mirjapur, Police Station-Nautan, District-Siwan. At Present Working as Senior Clerk in District Transport Office, Hajipur District-Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Transport Department, Bihar, Patna.
3. The Commissioner-Cum-Secretary, Transport Department, Bihar, Patna.
4. The Deputy Secretary, Transport Department, Bihar, Patna.
5. The Additional Secretary, Transport Department, Bihar, Patna.
6. The Joint Secretary, Personnel Administrative Reforms Department, Bihar, Patna.
7. The District Transport Officer, Gaya-Cum-Member of the Promotion Committee.
8. The Bihar Public Service Commission through its Chairman of Department Promotion Committee, Bihar,
9. The Secretary, Police Service Commission, Bihar, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Umesh Kumar Mishra, Advocate
For the State	:	Mr. Raghwendra Kumar, SC-22
For the BPSC	:	Mr. Kaushal Kumar Jha, Sr. Adv.
		Mr. Amish Kumar Jha, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 31-07-2025

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Bihar Public Service Commission.

2. The present writ petition has been filed for quashing Memo No. 2090, Patna, dated 23.03.2018, issued



under the signature of the Secretary, State Transport Department, Bihar, Patna, by which the appeal filed by the petitioner for consideration for promotion to the post of District Transport Officer (Junior) has been rejected, even after a specific order passed by this Hon'ble Court in CWJC No. 15456 of 2017 (*Shashi Bhushan Shahi Vs. The State of Bihar & Ors.*). Further prayer has been made to direct the respondent authorities concerned to promote the petitioner to the post of District Transport Officer (Junior) from the due date of his entitlement, since similarly situated/junior persons to the petitioner have been promoted to the said post, whereas the petitioner has been denied on the ground that he possesses the qualification of Sahitya Alankar from Hindi Vidyapith, Deoghar. Further prayer has been made to direct the respondent authorities to grant promotion to the post of District Transport Officer (Junior) on the basis of the qualification of Sahitya Alankar from Hindi Vidyapith, Deoghar, which is a recognized degree, without any further delay. Further prayer has also been made to direct the respondent authorities concerned to promote the petitioner to the post of District Transport Officer (Junior), on consideration of his qualification, which is of graduation level as per the conditions for recruitment, and to consider the



petitioner's degree, i.e., Sahitya Alankar from Hindi Vidyapith obtained in the year 1991, which is a valid degree, as the same is prior to 2012, and the State Government should consider it as a valid qualification. Promotion should accordingly be granted with effect from 2009 as per the existing rules and circular applicable on the relevant date.

3. Learned counsel for the petitioner submits that the petitioner passed matriculation in the year 1978 from the Bihar School Examination Board, Patna, and completed I.Sc in the year 1981 from Bihar University, Muzaffarpur. The petitioner further passed Sahitya Alankar, which is equivalent to graduation, in the year 1991 from Hindi Vidyapith, Deoghar. He further submits that the said degree of Sahitya Alankar from Hindi Vidyapith, Deoghar is equivalent to a Bachelor of Arts degree, as per the Bihar Government's own circular contained in Memo No. 08/R-303/84 of 541 dated 11.01.1991, issued by the Secretary, Personnel and Administrative Reforms, Government of Bihar, Patna.

4. Counsel further submits that the petitioner was appointed on 22.12.1987 to the post of Moharir, which is equivalent to the post of Clerk in the Consolidation Department, and began to discharge his duties as a clerk in the office of the



Deputy Director, Consolidation, Bhojpur at Ara. He further submits that the petitioner's services were absorbed in the Transport Department on 03.05.2002, and he joined on 16.05.2002 in the office of the Commissioner, Transport Department, Bihar, Patna, which is evident from the petitioner's service book itself.

5. Counsel further submits that the decision of the Bihar Government regarding the recognition of Sahitya Alankar has been followed by the Government of Jharkhand as well. Additionally, he submits that the Department of Personnel and Administrative Reforms, State of Bihar, has clarified that the degree conferred by Hindi Vidyapith, Deoghar, is recognized as per Order No. 541 dated 11.01.1991.

6. Counsel further submits that the State Transport Commissioner, Bihar, Patna, vide Memo No. 4133 dated 10.09.2007, sought applications for the post of District Transport Officer (Junior) through the Chairman of the State Transport Appellate Tribunal, the Deputy Commissioner-cum-Secretary, the State Transport Authority, and all District Transport Officers, with regard to appointment by way of promotion to the post of District Transport Officer (Junior). The petitioner, being an eligible candidate, also submitted his



application for the vacant post of District Transport Officer (Junior) in the pay scale of 6500–10500, as he was then working on the post of Upper Divisional Clerk. The petitioner submitted his application, and subsequently, his services were confirmed from the post of Lower Divisional Clerk to Upper Divisional Clerk vide Memo No. 1673 dated 18.04.2011.

7. He further submits that one similarly situated person preferred a writ application bearing CWJC No. 16412 of 2011 (*Shashi Shekharam v. The State of Bihar & Ors.*), with a prayer for promotion to the post of District Transport Officer (Junior), which was heard and disposed of with certain directions vide orders dated 22.11.2013 and 02.12.2013. In a similar matter, the qualification of Sahitya Alankar was challenged before the Hon'ble Division Bench, which was allowed, and by virtue of the order passed in LPA No. 11 of 2014 in CWJC No. 240 of 2013 (*Dr. Amresh Thakur v. The State of Bihar & Ors.*), the said person was appointed and his qualification of Sahitya Alankar was considered valid for promotion.

8. It has been submitted that the Transport Department has provided promotion to the post of District Transport Officer in the junior scale by virtue of the order



passed in the case of *Shashi Shekharam (Supra)*. He further submits that the petitioner, being an eligible candidate for consideration for promotion to the post of District Transport Officer (Junior), applied for such promotion in the proper format, however, his case was not considered. Thereafter, he preferred a writ petition before this Hon'ble Court in CWJC No. 15456 of 2017, which was disposed of on 05.02.2018. In the said order, liberty was granted to the petitioner, directing respondent no. 2 to dispose of the petitioner's pending appeal within a period of six weeks from the date of the order. He further submits that in compliance with the said order, the petitioner filed a representation dated 19.03.2018. However, the appeal was rejected vide order dated 23.03.2018 on the specific ground that the petitioner's graduation qualification, Hindi Alankar, had been obtained from Hindi Vidyapeeth, Deoghar. However, in light of the General Administration Department's Notification No. 5267 dated 08.04.2016, a decision was taken that any promotion or appointment obtained by virtue of such a degree prior to 07.05.2012 shall not be made after 08.04.2016.

9. Thereafter, the petitioner has challenged the said order dated 23.03.2018, passed by the Secretary, Transport Department, Bihar, Patna, in the present writ petition.



10. Counsel further submits that another similarly situated person, by virtue of the order passed in CWJC No. 12086 of 1999, (***Rajendra Pathak v. The State of Bihar & Ors.***), has been granted promotion on the basis of the same degree. He further submits that in the case of *Dr. Amresh Thakur (Supra)* it was also held that the degree of Sahitya Alankar from Hindi Vidyapeeth is equivalent to graduation, and benefits have accordingly been granted to the said petitioner.

11. Counsel, at the time of argument, has relied upon a judgment of the Hon'ble Division Bench passed in CWJC No. 5129 of 2009 along with other analogous cases (***Sanjay Kumar v. The State of Bihar & Ors.***), in which the final order was passed on 18.07.2019. He submits that the said notification was tested by this Hon'ble Court, and even after considering the said notification, the judgment, particularly paragraph 7, delivered an operative part that was in favour of those persons who had obtained the Sahitya Alankar degree.

12. By virtue of the order passed by the Hon'ble Division Bench, those persons were selected in contradiction to the said notification. He further submits that those persons were appointed through the Director, Primary Education, as evidenced by Annexures 21 and 22 of the reply to the counter



affidavit filed in the present writ petition. He further submits that, in any view of the matter, the petitioner is duly entitled to appointment on the said post, and the aforesaid notification shall not operate as a bar in his case.

13. Counsel further relies on Clause 4.C(1) of the Bihar State Litigation Policy, 2011, and submits that it is unequivocal in its language, categorically stating that if a similarly situated person has been considered and granted a benefit, then the State is bound to extend the same benefit to other similarly situated persons as well.

14. Counsel further submits that, as already contended, the petitioners in *Sanjay Kumar (Supra)* have been granted the benefit on the basis of the Sahitya Alankar degree, notwithstanding the said notification. Therefore, the petitioner is also entitled to the same benefit. If the Government fails to extend such benefit to the petitioner, it amounts to a gross violation of the Bihar State Litigation Policy, 2011 itself.

15. Learned counsel for the State and learned senior counsel for the BPSC jointly submit that the degree of Sahitya Alankar has been examined on multiple occasions before this Hon'ble Court, and the matter has even travelled up to the Hon'ble Supreme Court of India.



16. Counsel further submits that the notification which the petitioner wants to ignore is basically Letter No. 10878 dated 24.08.2017, which is as follows:-

बिहार सरकार
सामान्य प्रशासन विभाग
॥ अधिसूचना ॥

(85)

पटना-15, दिनांक 24-8-2017

पत्रांक-3/एम०-15/2018सा०प्र० 10878 / सामान्य प्रशासन विभाग
(तात्कालीन कार्मिक एवं प्रशिक्षण विभाग) के आदेश ज्ञापांक-8/आर० 1-303/84का०-
541 दिनांक-11 जनवरी, 1991 द्वारा सरकारी सेवाओं में नियुक्ति हेतु हिन्दी विद्यापीठ,
देवघर द्वारा दी जाने वाली उपाधियों, यथा-प्रवेशिका, साहित्यमूषण एवं साहित्यालंकार
(स्नातक के समकक्ष) को क्रमशः मैट्रिक, आई०ए० एवं बी०ए० के समकक्ष कतिपय शर्तों के
अधीन मान्यता प्रदान की गयी थी।

2. हिन्दी विद्यापीठ देवघर द्वारा प्रदत्त "साहित्यालंकार" की उपाधि की मान्यता के
संबंध में सी०डी०ए०सी०- 13343/2011 में दिनांक- 07.05.2012 को माननीय उच्च
न्यायालय, पटना द्वारा पारित न्यायादेश के अनुपालन में विभागीय अधिसूचना
ज्ञापांक- 5267 दिनांक 08.04.2016 द्वारा निम्नांकित निर्णय अधिसूचित किया गया:

"सी०डी०ए०सी०- 13343/2011 में माननीय उच्च न्यायालय पटना द्वारा
पारित दिनांक-07.05.2012 के समुक्तियों (Observation) एवं न्यायादेश के आलोक में
समुचित विचारोपरता हिन्दी विद्यापीठ, देवघर द्वारा प्रदत्त विभिन्न उपाधियों की मान्यता
संबंधी विभागीय आदेश ज्ञापांक- 8/आर० 1-303/84का०- 541 दिनांक-11 जनवरी,
1991 को उक्त न्यायादेश की तिथि अर्थात् दिनांक-07.05.2012 से निरस्त किया जाता
है। उक्त तिथि से पूर्व हिन्दी विद्यापीठ, देवघर द्वारा प्रदत्त विभिन्न उपाधियों के आधार पर
की गयी नियुक्ति/प्रोन्नति पर इसका कोई प्रभाव नहीं पड़ेगा।"

3. उक्त निर्णय के संबंध में कतिपय विभागों से दिनांक 07.05.2012 के पूर्व हिन्दी
विद्यापीठ, देवघर द्वारा प्रदत्त विभिन्न उपाधियों के आधार पर दिनांक 07.05.2012 से
अधिसूचना निगल किये जाने की तिथि 08.04.2016 के बीच की गयी नियुक्ति/प्रोन्नति के
संबंध में स्पष्ट दिशा निदेश उपलब्ध कराने का अनुरोध प्राप्त हुआ।

4. प्रासंगिक मामले में विद्वान महाधिवक्ता द्वारा दिये गये परामर्श का कार्यकारी अंश
निम्नवत् है:-

"Thus in my opinion, the clause simply means that appointments/promotions
made/given on the basis of certificates issued by Hindi Vidyapeeth, Deoghar prior to
07.05.2012 until the issuance of the notification by the G.A.D. dated 08.04.2016 shall
not be affected.

This also makes clear that no further appointments/promotions can be given
on the basis of certificates granted by Hindi Vidyapeeth, Deoghar treating it
equivalent to Matric, I.A. and B.A."

क०प००३०



2.

(86)

5. अतः सम्यक् विचारोपरांत स्पष्ट किया जाता है कि "हिन्दी विद्यापीठ, देवघर द्वारा दिनांक- 07.05.2012 से पूर्व प्रदत्त उपाधियों के आधार पर दिनांक 07.05.2012 से अधिसूचना झापांक- 5287 दिनांक- 08.04.2018 निर्गत होने के बीच (अर्थात् दिनांक 08.04.2018 तक) की गयी नियुक्ति/प्रोन्नति उक्त अधिसूचना से अप्रभावित रहेगी। परन्तु दिनांक 08.04.2018 के पश्चात् उक्त उपाधियों के आधार पर कोई नियुक्ति/प्रोन्नति नहीं की जा सकेगी।

बिहार राज्यपाल के आदेश से,

(राजेन्द्र राम)

सरकार के अपर सचिव

ज्ञाप संख्या -3 / एम०- 15/2015सा०प्र०.10878/पटना-15, दिनांक 24-8-2017
प्रतिलिपि:- प्रभारी पदाधिकारी, ई-गजट कोषांग, वित्त विभाग, बिहार, पटना को बिहार राजपत्र के असाधारण अंक में प्रकाशनार्थ प्रेषित।

(राजेन्द्र राम)

सरकार के अपर सचिव

ज्ञाप संख्या -3 / एम०- 15/2015सा०प्र०.10878/पटना-15, दिनांक 24-8-2017
प्रतिलिपि:- सभी विभाग/सभी विभागाध्यक्ष/सभी प्रमुखीय आयुक्त/सभी जिला पदाधिकारी/बिहार लोक सेवा आयोग/बिहार कर्मचारी चयन आयोग/बिपार्ड, वाल्मि, पटना को सूचनाार्थ एवं आवश्यक कार्यवाई हेतु प्रेषित।

(राजेन्द्र राम)

सरकार के अपर सचिव

17. Counsel further submits that the judgment passed by the Hon'ble Division Bench of this Court, on which the petitioner has placed reliance, i.e., Sanjay Kumar (*Supra*) but the judgment on which the counsel for the BPSC and State is relying is the judgment dated 22.08.2019 passed by the Hon'ble Full Bench of this Court in CWJC No. 11255 of 2016, along with other analogous cases (*Ramashankar Patel v. The State of Bihar & Ors.*). It is submitted that paragraph 46 of the said judgment is most relevant, as it discusses the entire crux of



the dispute. As per the said Full Bench judgment, any decision, whether relating to appointment or promotion, granted to anyone during the period between 07.05.2012 and 08.04.2016 shall be saved. However, any benefit, either of appointment or promotion, granted after 08.04.2016 stands barred.

18. Counsel further submits that the Departmental Promotion Committee (DPC) meeting concerning the petitioner was held on 16.08.2017. The decision of the Departmental Promotion Committee has been annexed as Annexure-11. Counsel submits that the petitioner's case was duly considered by the DPC, and paragraph 9 of the DPC proceedings clearly outlines the circumstances under which promotion was not granted to the petitioner.

19. Counsel further submits that the judgment of the Hon'ble Full Bench of this Court, delivered on 22.08.2019 in *Ramashankar Patel (Supra)*, has been tested before the Hon'ble Supreme Court of India in SLP (Civil) Diary No. 6359 of 2021, and the order passed by the Hon'ble Full Bench has been affirmed.

20. It is for this reason that both counsels jointly submit that the order of the Full Bench has attained finality, having been affirmed by the Hon'ble Supreme Court of India.



Consequently, the said notification, on the basis of which the Departmental Promotion Committee considered the petitioner's case, must also be treated as valid and binding.

21. Counsel further submits that, on the point of the Bihar State Litigation Policy, the same is not applicable in the present case. This is because the decision of the Hon'ble Full Bench has been affirmed, and the notification, which was subsequently tested before the Hon'ble Supreme Court of India, has also affirmed the decision of the Hon'ble Full Bench. Therefore, in such circumstances, there is no scope for granting any relief to the petitioner on the basis that he obtained the Sahitya Alankar degree and is entitled to promotion after 08.04.2016 by virtue of the said degree, which he claims to be equivalent to graduation.

22. In light of the discussions made above by the parties, it transpires to this Court that the questions involved are very limited:

- i) Whether a Single Judge, before whom decisions of the Division Bench and the Hon'ble Full Bench of the same Hon'ble Court, which have been upheld by the Hon'ble Supreme Court, have come, which order he has to affirm; and
- ii) Whether the Bihar State Litigation Policy, 2011



permits granting relief to the petitioner, which, according to him, has been granted to other similarly situated persons by virtue of decisions made by either the Hon'ble Single Judge or the Hon'ble Division Bench.

23. Answering the first question, this Court, following fundamental jurisprudence, holds that when a decision of the Hon'ble Full Bench and the Hon'ble Division Bench is placed before a Hon'ble Single Judge, the Court is bound to follow the decision of the Full Bench. This Court deems it appropriate to refer to the discussion in paragraph 46 of the Full Bench judgment in *Ramashankar Patel (Supra)*, which is as follows:-

“46. In terms of the notification of the General Administration Department as contained in Memo No. 541 dated 11th January, 1991 the Sahityaalankar certificate had got equivalence to the graduation at least prior to 25.08.2008, therefore, those writ petitioners who obtained their Sahityalankar degree from Hindi Vidyapeeth, Deoghar prior to 25.08.2008 would come within the framework of the notification dated 11th January, 1991 and shall be entitled for consideration for promotion to B.A. (Trained) Scale. By virtue of the notification dated 08.04.2016, the



promotions granted between 07.05.2012 and 08.04.2016 have been saved. Further by notification dated 17.04.2017 now even the degree obtained prior to 07.05.2012 and the appointment/promotion granted between 07.05.2012 and 08.04.2016 have been saved. In these circumstances the petitioners no. 4, 7 and 15 shall also be entitled for the benefits because in both cases i.e. notification dated 08.04.2016 and notification dated 17.04.2017 the State respondents cannot contend that while the promotions granted to the persons junior to the petitioners in the gradation list between 07.05.2012 and 08.04.2016 shall be saved, the petitioners would not be entitled for the same. This would be discriminatory because once equivalence granted to Sahityaalankar degree obtained from Hindi Vidyapeeth, Deoghar prior to 07.05.2012 is saved it will save the petitioners who have their Sahityaalankar degree obtained prior to 07.05.2012. They would be entitled to maintain their position in the seniority list and in case juniors to them have been granted promotion in terms of B.A. (Trained) Scale, these petitioners shall also be entitled for the same from the date their juniors have received the benefit.”

24. It transpires to this Court that the Hon’ble Full



Bench has primarily decided the reference relating to Sahitya Alankar. Furthermore, the said Hon'ble Full Bench decision has been tested before the Hon'ble Supreme Court of India in SLP (Civil) Diary No. 6359 of 2021, in which, by order dated 23.07.2021, the following was passed:-

“Delay condoned. We are not inclined to interfere with the impugned orders. The Special Leave Petitions are, accordingly, dismissed.

Pending applications shall also stand disposed of.”

25. Hence, this Court is of the firm view that the findings given by the Hon'ble Full Bench in paragraph 46, which have been affirmed by the Hon'ble Supreme Court of India, have now become the settled law and are binding on all.

26. With regard to the applicability of the Bihar State Litigation Policy, 2011, its Clause 4.C(1) states as follows:-

“A good number of cases are from the category of similar cases. Each Government Department will aim to consider and settle the claim of the representationist/ applicant- employee/ citizen, if the claim is found covered by any decision of the Court. Many service matters of this nature, can be disposed of at the level



of the Department itself without compelling the litigant to come to the Court. In this manner, the Government Departments would be acting as efficient litigants.”

27. Clause 4.C(1) refers to situations where no multiple litigations are involved. It is a decision which has to be taken by the Government Officials in a situation simplicitor that is to say no multiple litigations are involved.. However, in the present matter, this Court is of the firm view that multiple litigations are involved. Particularly, since the matter has been affirmed by the Hon’ble Full Bench and duly approved by the Hon’ble Supreme Court of India, the petitioner has no option but to abide by this settled position.

28. Accordingly, the present writ petition stands dismissed.

29. It is made clear that the Interlocutory Application has not been pressed by the petitioner, and he is at liberty to move for the relief sought therein before the appropriate forum afresh.

(Dr. Anshuman, J.)

Aman Kumar/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	
Transmission Date	NA

