

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.395 of 2022

In
Civil Writ Jurisdiction Case No.5984 of 2022

=====

Malti Verma Wife of Late Rajendra Prasad Verma, C/o Minakshi Garments, in front of Amawan Palace, Mohalla Thakurbari Road, P.S. Kadam Kuan, District Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department Govt. of Bihar, Patna.
2. The Director Primary Education, Govt. of Bihar, Patna.
3. The District Education Officer, Patna.
4. The District Programme Officer (Establishment), Patna.
5. The Block Education Officer, Patna Sadar, Patna.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Amar Nath Singh, Advocate
For the Respondent/s : Mr. Ram Vinay Prasad Singh, AC to GA XII

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 05-03-2025

Heard learned counsels for the parties.

2. In the instant appeal, appellant has assailed the order of the learned Single Judge dated 06.07.2022 passed in C.W.J.C. No. 5984 of 2022.

3. Brief facts of this case are that the appellant was initially appointed as a Matric Untrained Teacher on 05.01.1967. She had undergone two years training course in the year 1970 and she had been extended Matric trained scale on 24.11.1970.



She had acquired graduation in the year 1979, thereafter she was entitled to have the benefit of trained graduate scale on account of acquisition of degree in the year 1979 and it was not extended. Further, she had been extended first time bound promotion in the year 1987 and second time bound promotion in the year 2001 and she has attained the age of superannuation and retired from service in the year 2008. She had cause of action in the year 1979 on acquisition of degree qualification for the purpose of claiming graduate trained scale. On the other hand, she has knocked the door of this Court in the year 2022 in filing C.W.J.C. No. 5984 of 2022 and it was dismissed on the ground of delay on 06.07.2022. No doubt, the learned Single Judge has taken note of Hon'ble Supreme Court decision in the case of ***M.R. Gupta Vs. Union of India & Others reported in (1995) 5 Supreme Court Cases 628***. Insofar as principle of recurring cause of action has not been appreciated and so also third party right is not affected in the event of extending graduate trained scale to the appellant, i.e. three years prior to filing of C.W.J.C. No. 5984 of 2022. To the above extent, learned Single Judge has committed error in the light of principle laid down in ***M.R. Gupta case*** cited (supra). Third party right is not affected in the event of granting graduate



trained scale to the appellant. In fact, on acquisition of degree qualification and if it was submitted or bring it to the notice of the concerned authority, the authority *suo moto* should have extended the benefit of graduate trained scale.

4. Be that as it may, in the light of principle laid down in ***M.R. Gupta*** case, at the best re-fixation could be undertaken with a rider that litigant is not entitled to have monetary benefits three years prior to filing of writ petition. In the present case, C.W.J.C. No. 5984 of 2022 has been filed on 18.04.2022. If three years prior to this date is taken into consideration, appellant is entitled to have the fixation of graduate trained pay scale w.e.f. 18.04.2019. Therefore, the concerned authority is hereby directed to proceed to extend the trained graduate scale to the appellant from the year 1979 on the date of acquisition of degree qualification. However, arrears/ difference of pay is to be extended to the appellant only w.e.f. 18.04.2019 onwards in the light of principle laid down in the case of ***M.R. Gupta***. The same shall be calculated and disbursed to the appellant. Simultaneously, time bound promotion extended in the year 1987 and 2001 is to be re-fixed in the light of fixation of trained graduate scale from the year 1979. In that regard also difference of pay shall be extended to the appellant from 18.04.2019. The



same shall be re-fixed and difference of monetary benefit shall be calculated and disbursed in favour of the appellant within a period of six months from the date of receipt of this order, failing which appellant is entitled to litigation cost and it is quantified as Rs. 25,000/- (Twenty Five Thousand).

5. Accordingly, the order of the learned Single Judge dated 06.07.2022 passed in C.W.J.C. No. 5984 of 2022 stands set aside. The Present L.P.A. stands allowed.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

rakhi/-

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	08.03.2025
Transmission Date	

