

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12929 of 2025

Md. Ashik @ Mohammad Ashique Son of Late Md. Khalil, Resident of Village- Tufani Sain Kee Gali, Post Office and Police Station- Dumraon, District- Buxar. Retired while discharging his duties as a Graduate Trained Teacher form Govt. Middle School Parmanpur, Anchal- Simri, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Additional Chief Secretary-cum-the Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Education Department, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Patna Division, Patna.
5. The District Education Officer, Buxar.
6. The District Education Officer-cum-the Chairman of District Teachers Promotion Committee, Buxar.
7. The District Programme Officer (Establishment), Buxar.
8. The District Programme Officer, (Establishment)-cum-the Member Secretary of District Teachers Promotion Committee, Buxar.
9. The Block Education Officer, Simri, Buxar.
10. The Accountant General, Bihar, Patna.
11. The Senior Accounts Officer, Office of the Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Umesh Kumar Mishra, Advocate
For the Account General	:	Mr. Vivekanand Kumar, Advocate
For the Respondent/s	:	Mr. Government Pleader (26)
		Mr. Nawal Kishore Singh, AC to GP-26

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

2 18-08-2025 Heard Mr. Umesh Kumar Mishra, learned counsel for the petitioner, Mr. Vivekanand Kumar, learned counsel for the Accountant General and Mr. Nawal Kishore Singh, learned counsel for the State.



2. The petitioner has filed the present writ petition for the following reliefs :-

I. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to shift the date of promotion of the petitioner in graduate trained pay scale from the date of his entitlement i.e. after completion of eight years in matric trained pay scale and thereafter the grant the scale of Headmaster after completion of five years in graduate trained pay scale as per Bihar Nationalized Elementary Teacher Promotion Rule, 1993 in the light of the order passed by this Hon'ble High Court in the case of similarly situated teachers vide CWJC No. 15610 of 2018 (Raghvendra Sharma and Others vs. the State of Bihar and Others), as the petitioner had joined as an Assistant Teacher on 07.05.1986, and is entitled for grant of graduate trained pay scale after completion of eight years of service and, thereafter the scale of Headmaster from the due date of his entitlement but he has been denied the said benefits on erroneous grounds whereas in the light of the aforesaid order of this Hon'ble High Court, several similarly situated date of promotion in graduate trained pay scale has already been shifted and they have already been granted the scale of Headmaster from the due date of their entitlement and they have been given all consequential and monetary benefits



but the petitioner has been deprived till date.

Il. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to include the name of the petitioner in the final seniority list to be prepared by the District Elementary Teacher Establishment Committee, Buxar for grant of graduate trained pay scale with retrospective effect and the scale of Headmaster from the due date of his entitlement, as in the provisional list dated 17.05.2025, the name of the petitioner has arbitrarily been left out on the ground that the degree of graduation obtained by him in the year 1988 from Magadh University, Bodh Gaya has been held to be invalid by the District Teacher Establishment Elementary Committee, Buxar without considering the fact that the petitioner had appeared in the said graduation examination as an independent candidate after due permission of the then District Education Officer, Bhojpur and on the basis of the said degree, he had been granted promotion in the scale of graduate trained pay in the year 2012 but in the year 2025, the same degree is held to be invalid even though this Hon'ble High Court in its order dated 25.09.2012 passed in CWJC No. 11425 of 2012 (Fulan Lal Srivastava vs. the State of Bihar and Others) has held such action of the respondents to be unsustainable and had allowed the aforesaid writ petition of the petitioner therein with direction to



include his name in the gradation list and as the case of the petitioner is exactly same and similar to the petitioner of the aforesaid writ petition i.e. CWJC No. 11425 of 2012 (Fulan Lal Srivastava vs. the State of Bihar and Others), his name is also required to be added in the final list to be prepared by the District Elementary Teacher Promotion Committee, Buxar for promotion of teachers in the scale of graduate trained pay with retrospective effect and the scale of Headmaster.

III. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to consider the case of the petitioner in the light of the order passed by this Hon'ble High Court in CWIC No. 15610 of 2018 (Raghvendra Sharma and Others vs. the State of Bihar and Others) and grant all monetary and consequential benefits of promotion of graduate trained pay scale and the scale of Headmaster from the due date of his entitlement since when several similarly situated/junior to the petitioner has been provided the promotion in the graduate trained pay scale and the scale of Headmaster and also to revise his pensionary benefits and monthly pension etc, as the petitioner has retired from service on 31.03.2024

IV. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to implement the direction of the Director, Primary



Education, Bihar, Patna by which, there is direction for compliance of the order passed by this Hon'ble High Court in CWJC No. 15610 of 2018 (Raghvendra Sharma and Others vs. the State of Bihar and Others) for providing the benefits of graduate trained pay scale and the scale of Headmaster as per Bihar Nationalized Elementary Teachers Promotion Rule, 1993 and also for implementation of the Director's memo no. 592 dated 10.05.2013 by which, there is direction that if junior teacher has been promoted the senior teacher will also be given the same and similar benefits from the date since when the juniors have been granted the said benefits.

V. For issuance of any other writ/writs, order/orders, direction/directions for which the petitioner will be entitled in the facts and circumstances of the present case.

3. It is submitted by the petitioner that the petitioner has passed matriculation in the year 1981 from Bihar School Examination Board, Bihar, Patna and he passed intermediate in the year 1985 from Bihar Intermediate Education Council, Bihar, Patna and with the aforesaid qualification, the petitioner was selected for appointment as Assistant Teacher on 03.05.1986 and accordingly, he joined as an Assistant Teacher in Government Primary School Chipura, Anchal Sahar, District –



Bhojpur on 07.05.1986 and began discharging his duties. The petitioner, in order to enhance his educational qualification, appeared in graduation examination in the year 1988 from D.K. College, Dumraon, a constituent unit of the Magadh University, Bodh Gaya and after seeking due permission from the then District Education Officer, Bhojpur, Ara, which would be apparent from the letter issued by the then Block Education Officer, Simra, Bhojpur dated 24.12.1987 and is counter signed by the then District Education Officer, Bhojpur on 29.12.1987. It is also the case of the petitioner that the petitioner after seeking permission from the authorities concerned, as contained in Memo No.835 of 2000 dated 29.05.2002, also passed post-graduation from Nalanda Open University in the year 2002 with second division and further on the basis of degree post-graduation, the petitioner has been granted graduate trained pay scale as per Bihar Elementary Teacher Promotion Rule, 2011 vide memo No.2637 issued under the joint signatures of the District Education Officer, Buxar and the District Programme Officer (Establishment) Buxar.

4. It is next submitted by the petitioner that the Director, Primary Education, Government of Bihar *vide* memo No.592 dated 10.05.2013, has promoted teachers similarly



situated in the pay-scale of Head Master whereas the petitioner was not granted the said benefit. The limited grievances of the petitioner in this writ petition is to include his name in the final seniority of graduate teachers for the purpose of promotion and grant of pay scale attached to the post of Head Master and in support thereof, has invited attention to the order dated 12.09.2022 passed in C.W.J.C. No.15610 of 2018 (***Raghvendra Sharma and Others v. State of Bihar and Others***) wherein observation of the Hon'ble High Court is as follows :-

"In the circumstances as above, this Court directs the respondents to conduct an exercise after preparing the seniority list as directed by the Full Bench (supra) positively within a period of six months from today. All the districts will conduct an exercise of determination of vacancies for each year up to 2011, i.e, the date when the new Rules came into force and also prepare seniority list for each year as directed by the Full Bench. Thereafter eligibility list for each year shall be prepared based on the number of persons available under the zone of consideration and the promotion shall be accordingly granted. The pay fixation would be done accordingly, this would be applicable even to those teachers who have attained superannuation as held by the Coordinate Bench in the case of Rana Shankar Prasad & Ors. Vrs. State of Bihar &Ors. (C.W.J.C. No. 22608 of 2014) decided on



13.09.2018, and passed orders accordingly. It is made clear that the promotion so granted will result in notional benefits from an earlier year and actual benefits shall be paid after fixation from the date actual promotions have been made, In cases where the person has attained superannuation actual retiral benefits would be given along with arrears.

5. The petitioner has also appended the office order by which the District Education Officer, Buxar, has undertaken exercise in terms of directions issued by this Hon'ble Court in C.W.J.C. No.20707 of 2013 (***Nagendra Nath Ojha and Others v. State of Bihar and Others***) and the said exercise was actually done with respect to regular teachers for granting graduate pay-scale, with a sole view to publish final graduation list based on which the promotions in the said pay-scale can be granted to the persons found eligible. The petitioner has also appended a Five Member Committee decision wherein the case of the petitioner is said to have been considered by the authorities and the graduate degree which is said to be possessed by the petitioner is said to have not been found in terms of the requisites, as provided under the policies framed for preparation of the final merit list. It is the case of the petitioner that petitioner has obtained such degree after taking due permission from the



competent authority, i.e. the then District Education Officer, Bhojpur at Ara and it is also the case of the petitioner that even the post-graduation degree was obtained after taking due permission, the authorities have not assigned any reason for not considering the said degree, so obtained by the petitioner for the purpose of finding place in the final merit list published for grant of pay-scale with respect to graduate teachers and as such, the authorities were expected to inform the concerned persons, whose cases was not considered and the names are not finding place in the list appended with the final merit list at page 139 of the petition.

6. Since, the reasons are not very clear for rejecting the candidature of this petitioner and therefore, in terms of consideration made by this Hon'ble High Court in C.W.J.C. No.11425 of 2012 (*Fulan Lal Srivastava v. State of Bihar and Others*) wherein the Court had directed the respondents to consider the case of the writ petitioner and as suc, taking cue from the said judgment, since, the petitioner has already represented before the District Programme Officer (Establishment) Buxar on 24.06.2025 and this Court in similarly situated case has also given interference to the extent that the limited grievance of the petitioner was made to include his name



in the final seniority list for the purpose of promotion, therefore, it would be apposite to direct consideration of the representation made by the petitioner showing his eligibility for finding place in the final merit list in accordance with law within the specified period.

7. In such view of the matter, it is accordingly directed that the authorities must decide the claim of the petitioner in accordance with law within a period of six weeks from the date of communication of copy of this order and if the claim of the petitioner is found considerable, then appropriate orders, must be issued within the time so framed and consequential benefits must flow to the present petitioner in terms of policy of the Government.

8. Accordingly, the present writ petition stands disposed off.

(Ajit Kumar, J)

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