

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16377 of 2025

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Vijay Gupta, Son of Late Kamleshwari Prasad, Resident of Mal Godam Road,
Ward No.- 2, Khagaria, P.S.- Khagaria, District- Khagaria, Bihar- 851204.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
2. The Director Primary Education, Government of Bihar, New Secretariat, Patna.
3. The Principal Secretary, Finance Department, Government of Bihar, Old Secretariat, Patna.
4. The District Magistrate, Khagaria.
5. The District Education Officer, Khagaria.
6. The District Programme Officer (Establishment), Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Sweta Raj, Adv.
For the Respondent/s : Mr. Standing Counsel (18)

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 13-10-2025 Heard the parties.

2. The wife of the petitioner was duly appointed on 17.04.1988 as an Assistant Teacher in a Middle School. Upon discharging her duty for so many years, she superannuated on 31.03.2014 and unfortunately she died on 24.02.2023. The petitioner, husband of the erstwhile employee has approached this Court seeking a direction upon the respondent authorities for fixation of her salary in trained graduate pay scale in terms with the provision contained in Rule 22(1)(A), 7 (i) (ii) (iii) and (iv) of the fundamental rules which *inter alia* provides that for



the purpose of pay fixation on promotion, the salary payable on the date of promotion would be fixed and thereafter pay fixation would be done after giving benefit of one additional increment of the existing pay scale. The petitioner also sought for a direction upon the respondent to grant promotion in the graduate trained pay scale in terms with Promotion Rules 2011 (Rule 8).

3. Learned Advocate for the petitioner submitted that while the wife of the petitioner was working as a matric trained teacher, in the meanwhile, the State Government has come out with Non-Government Elementary School Teacher Promotion Rule, 2011 in exercise of its power under proviso to Article 309 of the Constitution of India. The wife of the petitioner was working as an Assistant Teacher, in view of the provisions contained in Rule 8 of the aforesaid promotion rule she was entitled to receive the trained graduate pay scale (Grade III), alongwith one additional increment but she has not been extended such benefit, despite her promotion in graduate trained scale and later on Headmaster. The issue raised before this Court has come up for consideration in C.W.J.C. No. 15610 of 2018, which came to be disposed off on 12.09.2022 and the order afore-noted was also made applicable even to those teachers who have attained superannuation. The Director, Primary



Education in compliance with the afore-noted order of this Court vide its memo no. 218 dated 27.02.2023 directed the District Education Officer to ensure payment of B.A. Trained Scale to other identically situated and junior teachers, but the wife of the petitioner has been deprived from the same. It is submitted that the petitioner has also made representation before the District Education Officer, Khagaria and the District Programme Officer, Establishment, Khagaria, but nothing has been done; hence the present writ petition. The photocopies of the representations have also been placed as Annexure P/10 series.

4. Learned Advocate for the State primarily seeks a short adjournment to file a counter affidavit, however, he submits that since the petitioner has already filed a representation before the competent authority who shall look into the matter and take appropriate action if the claim of the petitioner finds favour.

5. Having considered the fair submission, the present writ petition stands disposed off with a direction to the respondent no. 6 to consider the representation of the petitioner as contained in Annexure 10 series to the writ petition in the light of the order of this Court passed in C.W.J.C. No. 15610 of 2018.



6. Suffice it to observe that in case the claim of the petitioner's wife finds favour, necessary consequential order shall be passed preferably within a period of 12 weeks from the date of receipt/production of a copy of this order.

7. The writ petition stands disposed off.

(Harish Kumar, J)

supratim/-

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