

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17860 of 2023

=====

Lakhan Kamat @ Lakhan Kamati Son of Sutahilal Kamat, Resident of Ward
No.- 3, Bardaha, P.S.- Babubarahi, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Joint Secretary, Education Department, Government of Bihar, Patna.
3. The Deputy Secretary, Education Department, Government of Bihar, Patna.
4. The Special Director, Secondary Education (Sanskrit), Education Department, Government of Bihar, Patna.
5. Bihar Sanskrit Shiksha Board, through its Secretary, House No. 17, Back Harding Road, Patna-01.
6. The Chairman, Bihar Sanskrit Shiksha Board, House No. 17, Back Harding Road, Patna- 01.
7. The Secretary, Bihar Sanskrit Shiksha Board through its Secretary, House No. 17, Back Harding Road, Patna- 01.
8. The District Education Officer, Madhubani.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sushil Kumar Jha, Advocate
For the Respondent/s : Mr. Subhash Chandra Mishra (SC-16)

=====

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT

Date : 07-07-2025

Heard Mr. Sushil Kumar Jha, learned counsel
appearing on behalf of the petitioner and Mr. Subhash Chandra
Mishra, learned SC-16 appearing on behalf of the State

2. The petitioner, who was appointed as orderly in the
school namely Bal Vikash Vidya Mandir, Bardaha, District-
Madhubani on 10.05.2013 as contained in Memo No. 3279
issued under the signature of the Secretary of Bihar Sanskrit



Shiksha Board, has filed this writ petition for payment of regular pay scale.

3. The petitioner has been denied regular pay scale and being paid fixed pay on the basis of Resolution No. 970 dated 31.08.2013 issued under the signature of Joint Secretary, Education Department, Government of Bihar whereby, it has been resolved that the teaching and non-teaching staffs appointed after 15.02.2011 will be paid a fixed pay. The petitioner having been appointed as orderly on 10.05.2013, which is the date subsequent to 15.02.2011, is accordingly being paid a fixed pay in terms of the Resolution No. 970 dated 31.08.2013.

4. The petitioner has put to challenge the Resolution No. 970 dated 31.08.2013 by contending that the said resolution cannot be given retrospective effect to deny the petitioner's regular pay scale.

5. The petitioner further contends that the said issue has been resolved by a Division Bench of this Court in C.W.J.C. No. 985 of 2015, wherein, it has been held that the Resolution No. 970 dated 31.08.2013 issued by the Joint Secretary, Education Department, Government of Bihar cannot be given retrospective effect. Accordingly, on the basis of the decision



rendered by this Court in C.W.J.C. No. 970 of 2015, the petitioner is entitled to be paid a regular pay scale, contends the petitioner.

6. Respondent Nos. 1 to 4 and respondent nos. 5 to 7 have filed their counter affidavits.

7. In the counter affidavit filed by the respondent nos. 5 to 7, the contention made by the petitioner that the issue has been resolved by the Division Bench of this Court in C.W.J.C. No. 985 of 2015 to the effect that the Resolution No. 970 dated 31.08.2013 can have no retrospective effect, has been admitted and thereby, it has been further contended that the issue of grant of regular pay scale to the petitioner has to be decided by the District Education Officer, Madhubani in the light of the decision rendered by the Division Bench of this Court in the writ petition mentioned above. The respondent nos. 5 to 7 in the counter affidavit, thus, has supported the case of the petitioner.

8. The respondent nos. 1 to 4 have also filed a counter affidavit, wherein, it has also been admitted that the Division Bench of this Court in C.W.J.C. No. 985 of 2015 has held that the Resolution No. 970 dated 31.08.2013 can have no retrospective effect to deny the regular pay scale of the teaching and non-teaching employees of the school appointed prior to the



date of Resolution. While admitting the contention raised by the petitioner, respondent nos. 1 to 4 have stated in the counter affidavit filed that against the decision rendered by the Division Bench of this Court in C.W.J.C. No. 985 of 2015, the State had preferred Civil Review No. 295 of 2019 which was dismissed for non-prosecution on 28.03.2023 and thereafter, the State has preferred a restoration application bearing M.J.C. No. 2022 of 2023 with a prayer to restore Civil Review No. 295 of 2019. Respondent Nos. 1 to 4, therefore, have contended that the decision rendered by the Division Bench in C.W.J.C. No. 985 of 2015 is subject to further examination by the Court in the Civil Review No. 295 of 2019 filed by the State and the relief sought for by the petitioner would be subject to outcome of Civil Review No. 295 of 2019.

9. Since the respondents in the counter affidavit filed have not denied the fact that the issue has been resolved by the Division Bench of this Court in C.W.J.C. No. 985 of 2015 holding that Resolution No. 970 dated 31.08.2013 cannot have retrospective effect to deny the regular pay scale to the employee(s), whose appointment is prior to 31.08.2013 and also in view of the fact that the State respondents have also admitted the entitlement of the petitioner in view of the decision rendered



by this Court in C.W.J.C. No. 985 of 2015 only with a rider that the relief sought for by the petitioner would be subject to the outcome of Civil Review No. 295 of 2019, this writ petition is allowed with a direction to the respondents to pay the petitioner regular pay scale of orderly.

10. The writ petition is disposed of with the above direction.

(Nani Tagia, J)

Nilmani/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.07.2025
Transmission Date	N/A

