

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1307 of 2024

=====

Sarita Kumari, Wife of Resident of Mohalla-Kasim Bazar, District-Munger

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Education Department, Government of Bihar, Patna.
2. The Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Education Department, Government of Bihar, Patna.
4. The Regional Deputy Director, Munger Division, Education Department, Government of Bihar, Patna.
5. The District Education Officer, Munger.
6. The District Program Officer, (Establishment), Education Department, Munger.
7. The Block Education Officer, Munger.
8. The Drawing and Disbursement Officer, Munger.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Shailesh Anand, Adv.

For the Respondent/s : Mr. Addl. Advocate General (4)

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 16-09-2025 Heard the parties.

2. The petitioner aggrieved with the inaction of the respondent in not revising her pay structure and salary as also not providing the benefit of possession of higher qualification from the date of joining and the consequent pay scale retrospectively, has invoked the jurisdiction of this Court. The petitioner also sought a direction upon the respondents to provide benefit of senior pay grade on completion of 12 years from the date of joining of the service.



3. The petitioner was duly selected by the Bihar Public Service Commission against the post of Assistant Teacher in the year 1995 and submitted his joining on 18.06.1996 in Middle School Shrimatpur. It is the specific contention of the petitioner that though the petitioner had joined the service against post of Untrained Teacher, but with higher qualification and, as such, she was extended the pay scale of Matric Trained, but, later on, the same was revised and the petitioner was allowed pay scale of Matric Untrained Scale. Subsequent thereto the petitioner acquired training and by the order of District Superintendent of Education, Munger, she was granted Trained Pay Scale, but not with effect from the due date.

4. In the meanwhile, some of the Assistant Teachers moved before this Court in C.W.J.C. No. 6139 of 2007 with the grievance that the concerned District Superintendent of Education had withheld the payment of Senior Pay Scale, which was granted to them by the District Establishment Committee upon completion of 12 years of service. The afore-noted writ petition finally came to be disposed off vide order dated 31.03.2011.

5. The above referred decision was put to challenge before the Division Bench in L.P.A. No. 756 of 2015 and further



before the Apex Court; however, the decision of the learned Single Judge was duly affirmed. Based upon the aforesaid facts, learned Advocate for the petitioner submitted that the case of the petitioner is also squarely covered with such decision; nonetheless, he has not been allowed the admissible benefits, hence the present writ petition. The learned Advocate further added that identically situated persons have also approached this Court in C.W.J.C. No. 4907 of 2018 for extending Matric Trained Scale from the date of his appointment and senior scale after completion of 12 years of service, who have also been allowed the benefits in the light of the afore referred orders.

6. Counter affidavits have been filed on behalf of respondent nos. 3 and 6. Mr. Sanjay Kumar, learned Advocate for the State submitted that though the petitioner is impliedly claiming parity with the case of Ram Ashish Tiwary, but on the own showing of the petitioner, she had joined service as teacher in 1996 whereas the aforesaid Ram Ashish Tiwary has entered into service much before 31.12.1995 and, as such, the principle decided in the case would not apply in the case of the petitioner.

7. This Court has gone through the Bench decision referred hereinabove and does not find any substance in the contention of the learned Advocate for the State. For the better



appreciation of the issue, it would be worth benefitting to encapsulate the relevant part of the order passed in C.W.J.C. No. 6139 of 2007, which reads as follows:-

“Learned counsel for the petitioners rightly submits that petitioners were Graduate Untrained Teachers but were appointed in place of Matric Trained Teachers because their appointments were on compassionate ground. From the date of appointment, they were in the pay scale of Rs. 1200 to Rs. 2040/-. In the meantime, they got requisite training but considering the length of their service being 12 years, they were then granted senior scale of Rs 1400/- to Rs 2600/- which was subject to revisions. Learned counsel for the State submits, with reference to Government Circular, that a person, in a particular grade, could not shift to that grade from a higher grade merely as a consequence of training. In my view, he is correct but that is not relevant for the present case. A reference to the Schedule, as noted above, would show that a Graduate Untrained Teacher or Intermediate Untrained Teacher or an Intermediate Trained Teacher or Matric Trained Teacher are all in one grade. The training would, thus, not shift them, if their appointment is under Matric Trained Teachers. The pay scale only changes by virtue of



time bound incentive. By giving senior scale after 12 years of service, the grade does not change. They remain in the same grade but at a senior pay scale. Thus, the training aspect is inconsequential.

In my view, therefore, the District Establishment Committee correctly understood the situation and correctly granted senior scale of pay to the petitioners upon completion of 12 years of service and it was wrongly interfered by the District Superintendent of Education by his order dated 22.07.2006 contained in Annexure-6. Therefore, I have no option but to quash Annexure-6 and consequently even Annexure-9, the order of the Director, Primary Education, Katihar also cannot be sustained for the reasons aforesaid. If that be so then there is no question of recovering the amount paid rather consequential directions are issued to pay any amount withheld as a consequence of two impugned orders.

With the aforesaid observations and directions, the writ petition stands disposed of.”

8. Having considered the aforesaid facts and going through the referred decision, this Court directs the respondent nos. 5 and 6 to consider the claim of the petitioner for the benefit of Matric Trained Pay scale from the date of initial appointment as also Senior Pay scale after completing 12 years



of service as also the revised structure of salary and other consequential benefits, preferably within a period of 12 weeks’ from the date of receipt/production of a copy of this order, by a reasoned order in the light of the decision referred, hereinabove.

9. Suffice it to observe that in case the claim of the petitioner finds favour, necessary order for monetary benefit shall also be issued within the period stipulated.

10. The writ petition stands disposed.

(Harish Kumar, J)

supratim/-

U			
---	--	--	--

