

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2163 of 2019

1. Uttam Kumar and Ors Late Sunil kumar resident of Village and Post Office Aiyara, P.S-Karpi, District Arwal presently posted at Anani Shu Ucch vidyalaya, Pali Bazar Jehanabad
2. Mirtunjay Kumar Late Ram Dayal Sharma resident of Senari P.S- Karpi District- Arwal Presently Posted at 10 plus 2 Praveshika Vidyalaya, Shakurabad, Jehanabad
3. Rajendra Kumar Shri Baliram Sharma resident of Village- Senari, P.S- Karpi, District- Arwal, Presently posted at Gandhi Samarak inter Vidyalaya, Jehanabad
4. Kulshekhar Sharma Suryadeo Singh resident of village majidpur, P.S- Kinjer, District- arwal, Presently posted at Gandhi Samarak inter Vidyalaya Jehanabad

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Government of Bihar Patna Bihar
3. The Director, Secondary Education, Government of Bihar, Patna Bihar
4. The Regional Deputy Director of Education, Magadh Division, Gaya Bihar
5. The District Magistrate, Jehanabad Bihar
6. The District Education Officer, Jehanabad Bihar
7. Brajesh Kumar Late Suresh Singh resident of village- jhunathi Khurd Post- Jhunathi P.S-Parasbigha, District- Jehanabad
8. Mahendra Ram Late Ramdev Ram resident of village and post-Bharthu P.S- Ghoshi District- Jehanabad, Presently posted at Ramanand Sharma Project kanya Higher Secondary School, Okari, Ghosshi, Jehanabad
9. Sushma kumari late Ramdahin Mahto resident of village- Maliksarai post and P.S-Islampur District- Nalanda, presently posted at plus 2 High School, Murgaun, Jehanabad
10. Praveen Kumar Jaynandan Singh resident of village Senari, post- Khatangi P.S- Karpi (Vanshi) District- Arwal , presently posted at plus 2 High School, hulasganj, Jehanabad
11. Sahjanand Sharma late Dashrath Sharma resident of village, post and P.S- Rampur Chauram District- Arwal, presently posted at High School, Makhdumpur, Jehanabad
12. Sarita Kumari late umesh kumar Singh village-Pariyari bigha Post- Pariyari Dhig P.S- Kinjar, District- Arwal, Presently Posted at Gandhi Inter School krishna Ashram Sikaria, District- Jehanabad
13. Lalan paswan Late Munshi Paswan resident of mohalla Purvi Unhta, P.S, P.O and District- Jehanabad, presently posted at Gandhi praveshika School, krishnaashram, Bhenvad Sikaria, Jehanabad now posted at Rajkiyakrit High School, Makhdumpur, District- Jehanabad



14. Mrinal Manjari Late Niraj Kumar resident of village Senari post- Khatangai P.S- Karpi (Vanshi) District- arwal Presently at plus 2 High School Badhauna, Jehanabad

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 10483 of 2023

1. Uttam Kumar Son of Late Sunil Kumar Resident of Village and P.O.- Aiyara, P.S.- Karpi, District- Arwal.
2. Mritunjay Kumar Son of Late Ramdayal Sharma, Resident of Village- Senari, P.S.- Karpi, District- Arwal.
3. Rajendra Kumar Son of Sri Baliram Sharma, Resident of Village- Senari, P.S.- Karpi, District- Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar through its Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The District Magistrate, District- Jehanabad.
5. The District Education Officer, District- Jehanabad.
6. The District Programme Officer Establishment, District- Jehanabad.
7. The District Secondary Education Establishment Committee through its Chairman, District- Jehanabad.
8. Smt. Sushma Kumar, Wife of not known to the petitioners, at present posted as class-III employee at Project Kanya High School- Okari, District- Modanganj.
9. Smt. Anjani Kumari, Wife of not known to the petitioners, at present posted as class-III employee at Gandhi Smakrak High School- Sagarpur, District- Makhdumpur.
10. Sh. Praveen Kumar, Son of not known to the petitioners, at present posted as class-III employee at High School- Bharthu, District- Ghoshi.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 2163 of 2019 & CWJC No. 10483 of 2023)

For the Petitioner/s	:	Mr. Dinu Kumar, Adv. Mr. Vardaan Mangalam, Adv. Ms. Ritika Rani, Adv. Mr. Arvind Kumar Sharma
For the Respondent/s	:	Mr. Madhaw Pd. Yadav, GP-23 Mr. Shankar Kumar Thakur, AC to GP-27
	:	Mr. Arvind Kumar, AC to GP-23
For the Respondents 8 to 10 :	:	Mr. Paras Nath, Advocate.



CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
CAV ORDER/ JUDGMENT

29-01-2026 Heard learned counsel for the petitioners and learned counsel appearing for Respondents-State in the both the writ petitions.

2. *Vide* order dated 08.02.2024 passed in CWJC No. 2163 of 2019, the instant case was directed to be listed along with CWJC No. 10483 of 2023, after service of notice and since both these cases have common subjects in issue, as such on completion of pleadings of the parties including the private respondents, these matters have been heard together and on conclusion of the arguments of all the parties, accordingly, both the writ petitions are being adjudicated in the following manner.

3. The relief sought for in CWJC No. 2163 of 2019 is as follows:-

“(i) For quashing the office order vide Memo No. 574 dated 26.6.2018 issued by The Regional Deputy Director of Education, Magadh Division, Gaya as contained in Annexure-13 by which direction has been issued to the District Education Officer, Gaya to prepare the Gradation List of Class IV employees and grant promotion to the eligible persons from Class IV to Class Ill indicating the seniority of the petitioners viz private respondents;



(ii) Also for issuance of a writ in the nature of declaration that the decision taken by the Regional Deputy Director of Education, Magadh Division, Gaya dated 26.6.2018 as contained in Annexure-13 is contrary to the order dated 16.5.2018 passed by the Hon'ble Patna High Court in C.W.J.C.No. 5912 of 2018 as contained in Annexure- mainly on the reasons once the Hon'ble Patna High Court pleased to direct the Regional Deputy Director of Education, Magadh Division, Gaya to take decision upon the recommendation made by the District Education Officer for promotion from Class IV to Class III in which the name of the private respondent does not appear;

(iii) Also for direction to the respondents to not give effect of the office order vide Memo No. 574 dated 26.6.2018 as contained in Annexure-13 against the petitioner specially when their juniors have already been promoted from Class IV to Class III.

iv) And also for necessary direction, relief, order as the petitioners are found entitled to in the facts and circumstances of the case and eye of law.

4. The relief sought for in CWJC No. 10483 of 2023



is as follows:-

“ (i) For quashing the Office order vide memo no.1914 dated 07/07/23 issued under the signature of District Education Officer, District-Jehanabad as contained in Annexure-22, by which the Smt. Sushma Kumar, respondent no.8, Smt. Anjani Kumari, respondent no.9, and Sh. Praveen Kumar, respondent no.10 have been promoted from class IV to III clerk and posted in Project Kanya High School- Okari, District-Modanganj, Gandhi Smakrak High School-Sagarpur, District-Makhdumpur, Project Kanya High School, District-Makhdumpur and High School-Bharthu, District-Ghoshi respectively after cancelling of order dated 16/03/18 with retrospective effect as contained in Annexure-13.

(ii). Also, commanding the respondents to allow the petitioners to continue working as class-III employee in their respective place of posting as usual in view of the order dated 16/03/18 as contained in Annexure-13, after giving no effect to the order mentioned with respect to



Rajendra Kumar, respondent no.3.

(iii). Also for quashing the proceeding and decision of the District Establishment/Promotion Committee, Jehanabad dated 07/07/23 as contained in Annexure-21, held under the Chairmanship of the District Education Officer, District-Jehanabad by which the order no.555 dated 16/03/18 as contained in Annexure-13, was cancelled and the private respondents and the petitioner no.3 were promoted from 7/7/23 as contained in Annexure-22.

(iv). Also for necessary relief/reliefs, order/orders, direction/directions for which the petitioner is entitled in the eye of law.”

FACTUAL MATRIX IN BOTH THE CASES

5. The petitioners were appointed on compassionate ground on Class-IV post, owing to the deceased employees, who happened to be the father of these petitioners, said to have been killed in the extremist's carnage known as 'Senari Carnage' in the night of 18.03.1999. Since, these petitioners had the requisite qualification for being appointed on compassionate



ground, their appointments were directed on the recommendation of the District Compassionate Committee, by following requisite procedures as prescribed in law by issuing appointment letters against which the petitioners are said to have joined the respective posts. At the time of their appointment, the petitioners had passed their matriculation examination and subsequently, with the permission of the District Education Officer, Jehanabad, they are said to have pursued further studies and accordingly, petitioner no.1, Uttam Kumar is said to have completed his Graduation in 2011, while petitioner no. 2, Mritunjay Kumar and petitioner no. 3, Rajendra Kumar of both the writ petitions, completed their Intermediate qualification in 2014 and 2004 respectively. And additionally, all these three petitioners are said to have obtained diplomas in computer application (DCA) from valid institutions, the certificates issued are appended as Annexure-1 Series of CWJC No. 10483 of 2023. The promotion of the petitioners from Class-IV to Class-III posts is governed by several administrative frameworks and rules, being Bihar Secretariat Clerical Service Rules, 2006 as referred in Memo No. 7443 dated 30.06.2011, which formulated the promotion procedures appended as Annexure-2 of the CWJC No:10483/2023, got amended and



was being called as the Bihar Secretariat Clerical Service Cadre (Recruitment and Service Conditions) Rules, 2011 (for short “Rules, 2011”) which initially established the base-line for recruitment and promotion under which, Rule 7(5) of the “Rules 2011” stipulated that 85% of posts belonging to Lower Division Clerk (LDC) were to be filled up through direct recruitment, while 15% were earmarked for being filled up from amongst the eligible Group ‘D’ employees having matriculation qualification. In exercise of power under Article 309 of Constitution of India, Rules for recruitment and service condition was framed, which is known as Bihar Collectorate Clerical Cadre (Recruitment and Service Condition) Rule 2011 and under the Rule 6(1) of the “Collectorate Rules 2011” required matriculation with knowledge of computer application. The said Rule was further amended in the year 2013 and all the visible features of the earlier “Rules 2011” was fundamentally found altered *vide* Notification No. 14227 dated 2nd September, 2013, which introduced the Bihar Collectorate Clerical Cadre (Amendment) Rules, 2013 (For short ‘ Rules 2013’), and substituted the Rule 6(1) mandating that the minimum educational qualification for the clerical cadre would be an intermediate pass (10+2) or equivalent along with the



knowledge of computer operation and computer typing. The Bihar Collectorate Clerical Cadre (Recruitment & Service Conditions) Rules, 2011, which clarified that 15% posts must be filled up in seniority order from such Group 'D', who possesses the qualification required for clerical posts and consequently, after September, 2013, no Group "D" employee could have legally been promoted to Class-III post, unless they possess both the intermediate degree and the computer certificates (which would mean knowledge of computer application and computer typing). The said Rule, 2011 further provides that compassionate appointee shall be junior to the direct recruits.

Stand of the petitioners.

6. The petitioners' case is that they obtained this technical qualification prior to 2017-2018 promotion cycle and were amongst the few employees, who strictly adhered to updated statutory standards, which were brought into effect with fundamental amendments in the Bihar Collectorate Clerical Cadre (Recruitment & Service Conditions) (Amendment) Rules, 2013, which were framed in the year 2011. It is the case of the petitioners that since the administrative machinery of the Department of Education in the district of Jehanabad under which these petitioners are said to have been working, having



failed to initiate the procedures of promotion on the post of Class-III from group 'D' employees, these petitioners were compelled to file the writ petition bearing CWJC No. 17793 of 2016, wherein, it was submitted that the petitioners fulfilled the requisite criteria/qualification for their cases to be considered for promotion from Class-IV to Class-III post, on which they are presently working and the authorities have also done a preliminary screening and the list has also been prepared which has been submitted by the concerned District Education Officer, Jehanabad to the office of Regional Deputy Director of Education, Magadh Division, Gayaji and now the authorities are only to take a final decision based on such recommendation, which for no obvious reason, appropriate decisions was not been taken giving reasons to file such petition.

7. Considering the submission of the petitioners, the Hon'ble Co-ordinate Bench *vide* order dated 05.12.2017 passed in CWJC No. 17793 of 2016, was pleased to direct the authorities concerned to "take a final decision on the recommendation made by Respondent No.6 relating to promotion of the person including the petitioners on the post of Class-III from Class-IV", in which these petitioners are said to be working and accordingly, the writ petition was disposed of



for taking such decision within a period of two months.

8. It has further been brought to the notice of this Court that pursuant to the judicial mandate, the District Administration initiated rigorous verification process by issuing letter no.627 dated 20th May, 2017 (issued under the signature of District Education Officer, Jehanabad) for collection of details of all intermediate passed Group 'D' employees in the district of Jehanabad and accordingly, a final merit list is said to have been prepared on 22 July, 2017, after completing the process of seeking details and other formalities, the final merit list was published, in which the name of the petitioner no.1 stands at Serial No.10, petitioner no.2 stands at Serial No. 6, petitioner no. 3 stands at Serial No. 4.

9. It has next been submitted that pursuant to the check list prepared by District Education Officer, Jehanabad on 22.07.2017, the final gradation list is said to have been prepared and published in which, the private respondents, namely, Sushma Kumari, Anjani Kumari and Praveen Kumar have not been shown to have acquired the knowledge of computer operation and computer typing. *Vide* letter no. 262 dated 08.02.2018 issued under the signature of District Programme Officer, Jehanabad addressed to all school Heads of the



Government School were directed that all the desired candidates for the promotion from Class-IV to Class-III would present themselves with educational qualification including computer operation and computer typing certificates along with original service books, before District Establishment Promotion Committee for consideration of their cases for promotion. These petitioners are said to have appeared before the District Establishment Promotion Committee on 17.02.2018 along with all certificates as required under the Bihar Collectorate Clerical Service Cadre (Recruitment and Service Conditions) Rules, 2011 and the Amendment Rules, 2013 and were further directed to make signature over the proceedings and accordingly, a decision was taken on 17.02.2018 for promotion of these petitioners from Class-IV to Class-III in the light of the order passed by the Co-ordinate Bench in CWJC NO. 17793 of 2016 and the District Establishment Committee having resolved that these petitioners were having requisite qualification in terms of the Bihar Collectorate Clerical Service Cadre (Recruitment and Service Conditions) Rules, 2011 and the Amendment Rules, 2013 and pursuant thereto, in the meeting of District Establishment Posting Committee under Chairmanship of District Education Officer held on 16.03.2018, the petitioners



were promoted from Class-IV to Class-III, *vide* office Memo No. 555 dated 16.03.2018 issued by the District Education Officer, Jehanabad, by which these petitioners were posted on promotion from Class-IV to Class-III in the respective schools, details of which is indicated in para-19 of the writ petition being CWJC No. 10483 of 2023 and the petitioners are said to have joined the respective post of Class-III on 17.03.2018.

10. The petitioners by referring to the check list dated 22.07.2017 issued under the signature of District Education Officer, Jehanabad appended as Annexure-14 of CWJC No. 10483 of 2023 submits that from the said list, it is quite apparent that only petitioner no. 1, 2 and 3 and one Kulshekhar Sharma, who is said to have died on 05.02.2023, were eligible for promotion under Bihar Collectorate Clerical Service Cadre (Recruitment and Service Conditions) Rules, 2011, (Amendment Rules, 2013) as no other employees of final seniority list dated 22.07.2017 prepared on the basis of integrated inquiry report dated 22.07.2017 had the knowledge of computer operation and computer typing and therefore, only these petitioners were granted promotion and even after grant of promotion, nobody including the private respondents had ever objected to such promotions rather they simply filed a writ petition bearing



CWJC No. 5912 of 2018, wherein the only submission was made before the Co-ordinate Bench that their case is covered by the decision rendered in the case of these petitioners, who are said to have filed the writ petition for grant of promotion *vide* CWJC No. 17793 of 2016 and considering the submissions made in the writ petition filed by the private respondents, the same was disposed of with a direction to the Respondent No.4/Regional Deputy Director, Education, Gayaji, to examine the claim of these petitioners and if it is found that the present case is covered by the decision of the Co-ordinate Bench in CWJC No. 17793 of 2016, the Respondent No.4 may consider the case of the petitioners in the light of order dated 05.12.2017 and the exercise so required for consideration of the cases of private respondents, would be considered within the time line so prescribed in the order dated 16.05.2018 passed in CWJC No. 5912 of 2018. With such observations, the writ petition was disposed of.

11. It is the case of the petitioners that the private respondents being Respondents No. 8, 9 and 10 had never made any complaint either before the district authorities or at any other higher forum including the aforesaid writ petition preferred by them which is said to have been disposed of by the



Co-ordinate Bench, wherein such allegations have been made that despite these private respondents having the qualification for promotion, their eligibility was compromised in granting promotions to these petitioners.

12. During the course of hearing, the private respondents no. 8 to 10 were directed to file their counter affidavit in this case and through second counter affidavit filed in this case on behalf of private respondents 8 to 10, it has been asserted that the respondents no. 8 to 10 had submitted their requisite qualification about the knowledge of computer operation in the office of Respondent No.5 on 11.08.2018, upon which initials were made by the authorized person, while receiving the papers for their promotion as Class-III employees but those papers have not been included in the list prepared by Respondent No.5, as such, the name of these private respondents, could not be considered in the list of promotion.

13. It has next been asserted that it is an admitted fact which would emerge from the order passed by the Regional Deputy Director of Education, Magadh Division, Gayaji as contained in Memo No. 574 dated 26.06.2018 that these private respondents do have the computer knowledge of operation and typing and they deserve to be promoted as Class-III employees.



14. From the order dated 26.06.2018 passed by Regional Deputy Director of Education, Magadh Division, Gayaji, it is quite evident that though there is a finding with regard to the computer knowledge with respect to the private respondents but there is no consideration of the fact that as to why, if such knowledge was acquired by these private respondents way back in the year 2014 itself, as mentioned in the certificates produced through affidavit, then what prevented them from not producing such certificates or during course of preparation of merit list dated 22.07.2017, having made such protest before the District Promotion Committee and as also, such qualification having not been indicated in the form, which was to be filled up by them based on which, final/seniority gradation list dated 22.07.2017, has been prepared and published by the District Authority.

15. Learned counsel for the petitioners submits that Judicial intervention would be required in this case taking note of the fact that the cancellation was effected during judicial stay and the Respondent Authorities did not possess the legal authority or jurisdictional competence to initiate "administrative rectification" and issue of demotion orders via Memo No. 1914 under the guise of transparency and quota compliance, while the



promotion process of the State was subject to an active Status Quo order by the Hon'ble Supreme Court and as also under judicial stay by the Co-ordinate Bench of this Court could not have been give effect.

16. It has further been argued that the justification for cancellation advanced by respondents during stay is fit to be rejected, where such stand is taken that the withdrawal of promotions was a necessary "rectification" to adhere to the 15% quota Notification No. 821 and to ensure transparency via Letter No. 195 dated 11.08.2023 and Letter No. 2345 (12.08.2023). However, these actions were taken despite two critical judicial interdictions: Supreme Court Stay: On 15.04.2019, the Hon'ble Supreme Court in SLP No. 30621 of 2011 ordered Status Quo regarding promotions in the State of Bihar. Co-ordinate Bench Stay: On 01.04.2019, a stay was granted in MJC No. 2847 of 2018 (arising out of CWJC No. 19114 of 2012). Despite these stays, the DEO issued the impugned demotion/promotion order on 07.07.2023 via Memo No. 1914.

Submissions on behalf of Respondent No.5 and 6

17. Learned counsel for Respondent Nos. 5 and 6 submits that the promotions from Class-IV to Class-III posts in the district of Jehanabad are strictly governed by the **Bihar**



Collectorate Clerical Service Cadre (Recruitment and Service Conditions) Rules, 2011 (Notification No. 821 dated 23.03.2011). These rules mandate a 15% quota for promotion from the Class-IV cadre. It is submitted that out of a total of 47 sanctioned posts, only seven (7) posts can legally be filled via promotion. It is further submitted that while the petitioners were promoted to Class-III posts via Office Order No. 555 dated 16/03/2018 (**Annexure-A**), this promotion was fundamentally irregular. Counsel for the respondents contends that the 2018 promotion was granted in haste to ensure compliance with the directions of this Hon'ble Court in **C.W.J.C. No. 17793 of 2016**, and in doing so, the mandatory principle of seniority was bypassed. This irregularity led to a challenge by senior employees in **C.W.J.C. No. 5912 of 2018 (Brajesh Kumar & Ors. vs. State of Bihar)**. By an order dated 16.05.2018, this Hon'ble Court directed a reconsideration of the entire promotion process to ensure adherence to law.

18. In light of the judicial intervention in the *Brajesh Kumar* case and subsequent contempt proceedings (**M.J.C. No. 4408 of 2018**), the Regional Deputy Director of Education (RDDE), Magadh Division, acting as the Appellate Authority, issued **Memo No. 574 dated 26.06.2018 (Annexure-B /**



Annexure-R/A).

19. In compliance with those directions and the seniority list prepared by the Regional Deputy Director of Education (RDDE), Magadh Division (**Memo No. 574 dated 26.06.2018**), a fresh administrative exercise was undertaken on 04.10.2018 to rectify the irregular promotion: Further clarification was sought from the Director, Secondary Education, Patna vide letter no. 195 dated 11.08.2023 and a show-cause was submitted by the office *vide* letter no. 2345 dated 12.08.2023 to ensure full compliance with Government instructions and judicial order. The District Establishment/Promotion Committee met to finalize the promotions on **07/07/2023 (Annexure-21)**.

20. Following the committee's decision, the District Education Officer issued **Letter No. 1913 dated 07/07/2023** to communicate the departmental process, which culminated in the primary impugned order: **Office Order *vide* Memo No. 1914 dated 07/07/2023 (Annexure-22)**. By this order, the 2018 promotions of the petitioners were cancelled with retrospective effect to maintain the 7-posts limit and accommodate senior eligible candidates (Respondent Nos. 8, 9, and 10). Crucially, **Petitioner No. 3 (Rajendra Kumar)** was found eligible under



the revised seniority list and was consequently **granted a fresh promotion effective from 07/07/2023** under the same order.

21. The respondents maintained that these actions were not arbitrary but were necessary administrative rectifications to ensure transparency and adherence to the "seniority-cum-eligibility" principle. It is further argued that the writ petition is not maintainable as the petitioners failed to exhaust their statutory remedy by filing an appeal before the RDDE, Magadh Division, the designated Appellate Authority. The respondents contend that the 2023 order of promotion were issued in full compliance with the departmental policies and the previous mandates of this Hon'ble Court.

22. Learned counsel for the respondents by referring to their stand taken by them in their counter affidavit submits that the initial promotion of the petitioners via **Memo No. 555** dated **16.03.2018** was an irregular action necessitated by the urgency of complying with the High Court's order in **CWJC No. 17793 of 2016** dated **05.12.2017**, which resulted in a failure to strictly adhere to seniority rules. The specific stand so taken in the counter affidavit filed by them, wherein with regard to the promotion of these petitioners as well as subsequent promotions, which is subject matter of challenge in this case, are being



reproduced as under:-

..... 5. That in pursuance of the order dated 05.12.2017 passed by the Hon'ble High Court in CWJC No. 17793 of 2016 (Uttam Kumar & Ors. v. State of Bihar & Ors.), the Regional Deputy Director of Education, Magadh Division, directed the District Education Officer, Jehanabad, to take necessary steps regarding promotion from Class-IV to Class-III posts.

6. That accordingly, the District Education Officer, Jehanabad, vide Memo No. 555 dated 16.03.2018, promoted certain employees including the petitioner, without considering seniority due to the urgency of compliance.

7. That in compliance of the aforesaid order, the RDDE, Magadh Division, vide Memo No. 574 dated 26.06.2018, prepared a fresh list of eligible candidates strictly based on seniority, which was later communicated to this office.

8. That the withdrawal of the promotion was therefore not arbitrary, but in strict conformity with the Hon'ble Court's directions, departmental circulars, and the principle of seniority-cum-eligibility.

Underlined by me

23. Learned counsel for the Respondents by referring to the stand so taken submits that their actions rescinding the



promotions granted to the writ petitioners cannot be said to be without jurisdiction inasmuch as when there was specific direction by the Co-ordinate Bench to consider the cases of writ petitioners of CWJC No. 5912 of 2018 (Writ petition of Private Respondents No. 8 to 10) which order had necessitated for undertaking fresh process of promotion and the authorities were compelled to take a call by interfering with the promotions which is said to have been cancelled insofar these petitioners are concerned and further the promotions which is said to have been granted after cancellation of promotions *vide* order dated 07.07.2023 cannot be said to be without jurisdiction.

SUBMISSIONS ON BEHALF OF PRIVATE RESPONDENTS 8, 9, 10.

24. Learned counsel for Private Respondent Nos. 8, 9, and 10 submits that these respondents are fully qualified for promotion to Class-III posts, having timely submitted their educational and computer qualification certificates to the office of the District Education Officer, Jehanabad (Respondent No. 5). It is submitted that following a notification issued on **20.05.2017** calling for qualifications, the private respondents submitted their credentials; however, their names were intentionally omitted from the promotion panel or marked with "Nil" in the special



knowledge column.

25. The private respondents contend that this omission was the result of a deliberate and *mala fide* act. Specifically, it is alleged that **Petitioner Nos. 1 and 2** were posted on deputation in the office of Respondent No. 5 between **2016 and 2018**. During this tenure, the petitioners allegedly acted in connivance with the departmental authorities to manipulate the seniority records, ensuring the exclusion of the private respondents to facilitate the petitioners' own irregular promotions in March 2018.

26. The learned counsel further highlights the appellate order passed by the Regional Deputy Director of Education (RDDE), Magadh Division, dated **26.06.2018 (Annexure-18)**. In the said order, the Appellate Authority specifically held that Respondent Nos. 8 to 10 possess the necessary educational and computer knowledge certificates and are legally entitled to be promoted as Class-III employees. This finding by the RDDE effectively refutes the petitioners' claim that these respondents lacked the requisite qualifications at the time the seniority list was finalized. It is further submitted, as evidenced by **Annexure R/1**, that the private respondents'



computer qualification certificates and applications were duly acknowledged and received by the department as early as **11.08.2018**. Despite these documents being on record, the official respondents initially failed to include them in the roster/panel prepared for promotions, an administrative failure that was only corrected through the subsequent proceedings of the year, 2023.

27. The core submission on behalf of the private respondents is that their eventual promotion via the impugned order dated **07.07.2023** is legally sound and restores the rightful "seniority-cum-eligibility" criteria. While the private respondents state they have no objection to the promotion of the petitioners if they are found to be deserving, they maintain that such promotions cannot be granted by displacing or compromising the established legal rights and superior seniority of Respondent Nos. 8, 9, and 10. They argue that the 2023 administrative action was a necessary corrective measure to undo the previous manipulations and comply with the RDDE's appellate directions.

REPLY OF THE PETITIONERS TO THE PRIVATE RESPONDENTS.

28. Learned counsel for the petitioners, in response to



the contentions of the private respondents, submits that Respondent Nos. 8, 9, and 10 fundamentally lack the mandatory qualifications of Intermediate and Computer Operation/Typing as prescribed under the **Bihar Collectorate Clerical Service (Amendment) Rules, 2013 (Annexure-P/6)**. It is contended that while the petitioners' certificates were duly verified and found valid by the District Programme Officer (Establishment) (**Annexure-P/13 & P/14 series**), the private respondents failed to produce any such credentials during the actual selection process conducted between 2017 and 2018.

29. It is submitted that the official records clearly demonstrate the ineligibility of the private respondents at the relevant time. Specifically, Respondent No. 10 left the "special knowledge" column blank in his application and has not enclosed certificate of the typing/computer operation (**Annexure-P/15, pg. 74**), and Respondent No. 8 merely mentioned having "17 years of experience" without enclosing any valid computer certificate. Furthermore, it is alleged that Respondent No. 9 failed to even submit an application in response to the departmental notices dated 20.05.2017 (**Annexure-P/8**) and 08.02.2018 (**Annexure-P/10**). The petitioners argue that the computer certificates now being relied



upon by the private respondents are "anti-dated" and manufactured documents, created only after the petitioners were legally promoted on 16.03.2018. This is corroborated by a letter no. 1049 dated 19.06.2018 (**Annexure-P/27**), wherein the then District Education Officer informed the RDDE that only the petitioners and one other individual possessed the requisite qualifications.

30. The learned counsel further contends that the impugned orders dated 07.07.2023 (**Annexure-P/21 & P/22**) are a nullity in the eyes of law. It is argued that these orders were passed by considering only matriculation qualifications, thereby disregarding the mandatory statutory requirement of computer knowledge.

31. Legal issues

1. Whether retrospective cancellation of promotion after five years, leading to reversion and loss of vested rights, without adherence to the principles of natural justice, is sustainable in law ?

It is a settled principle that any administrative action entailing civil consequences (such as demotion or loss of seniority, loss in salary) must adhere to *Audi Alteram Partem*. Since, the petitioners were not given a chance to defend their 2018 promotions which was cancelled in the



year, 2023, to grant promotion to private respondents, the order is procedurally *ultra vires* and violates Article 14 of the Constitution. Such unilateral cancellation deserves to be interfered with, to do complete justice.

Unless, allegation of fraud or representation are made for fetching such promotions, a settled promotion cannot be undone retrospectively, as such action divests the promotees from their vested rights.

2. Whether the Administrative Action in Defiance of Judicial Stay can be justified in law ?

It is a foundational principle of law that any administrative order passed in violation of a judicial stay or status quo is a nullity in the eyes of the law (*void ab initio*). The Respondents' claim of good faith or compliance with departmental circulars to ensure transparency is legally irrelevant when the Apex Court had frozen the status of the parties. The act of unilaterally revising the seniority list and demoting the petitioners during the subsistence/continuance of these stays, the authorities have acted without jurisdiction. "Administrative transparency" cannot be invoked to override a judicial injunction; doing so constitutes not only a procedural illegality but also a potential interference with the administration of justice liable



for initiation of contempt proceedings and
punishment for committing contempt of Court.

3. Whether seniority of the employees in the respective cadre as per the applicable rules is required to be determined with publication of final seniority list by resorting to the procedure prescribed for grant of promotion ?

Under the rule established in M. Pachiappan & Ors v. S. Markandam & Ors. Civil Appeal No. 926 of 2004, SLP (Civil) Nos. 18811-18820 of 2004, legality and validity of a final seniority list, "holds the field" unless specifically challenged or administratively/judicially interfered and continues to govern the parties, if it has been finalized by following the due procedure of law. Since from the records, it does not appear that objections were invited from the employees concerned before finalizing the seniority list of 2017 or even the rules of reservation as applicable for granting promotion to the Government employee as per the constitutional scheme does not appear to have been adhered, therefore, the subsequent seniority list, which till date has also remained as provisional



could not have been relied for cancellation of promotion and granting fresh promotion, rather should be finalized after inviting objections from all concerned, and upon adjudication of their objection, the said provisional seniority list should be given its finality by publishing the final merit list to show its validity, and only thereafter, the promotion of all eligible persons be placed for consideration before the Departmental Promotion Committee followed with promotional order being put in place in accordance with rules in vogue.

Consideration

32. On consideration of the submission of the petitioners, private respondents including the stand taken by the official-respondents in this case, it is quite clear that there has been a breach of principles of natural justice, while interfering with the promotions, which is said to have been granted in favour of these petitioners, by preparing the seniority list, which is said to have been finalized after seeking documents, which were essential for preparation of merit list and further by providing all the opportunity to all concerned including the



private respondents but from the record, it does not appear that objections were invited from the employees of the cadre before finalizing the said seniority list to give the shape of final seniority list, and when the private respondents having filed the writ petition seeking grant of promotion in similar terms as that has been extended in favor of these petitioners and the writ petition having been disposed of with a direction that if the case of the private respondents is covered by the order passed by the Co-ordinate Bench of this Court *vide* order dated 05.12.2017 passed in CWJC No. 17793 of 2016 filed at the instance of the writ petitioners, then the cases of other similarly situated persons shall also be considered and promotion if any, shall be granted within the time so specified.

33. It is admitted position on record that ignoring the final seniority list of 2017, which is said to have been prepared in accordance with the applicable rules governing the service conditions of Group 'D' employees of the district, in which the petitioners were found eligible, while the private respondents having not been found eligible, the promotions to these petitioners were granted but without following the principles of natural justice or having show-caused these petitioners to file their responses/objections, before cancellation of promotion vide



impugned orders dated 26.06.2018 whereby the District Authorities, were directed to prepare a fresh gradation list, and to promote the eligible persons of Class-IV employees based on which, the District Establishment Committee met on 07.07.2023, and on the basis of their recommendation, the promotions of these petitioners were cancelled *vide* order as contained in Memo No. 1914 dated 07.07.2023 appended as Annexure-13 of (CWJC No. 2163 of 2019) and 07.07.2023 as contained Annexures-21 and 22 (CWJC No. 10483 of 2023) and the preparation of the provisional seniority list of year 2018 without rescinding the final seniority list, which has already been put in place by the authorities of the District, based on which, the promotions to the private respondents and others are said to have been granted and the authorities without bringing finality to the said provisional list, by resorting to the procedures prescribed in law, in which the objections which are said to have been filed by the different employees, having till date not even been adjudicated, still proceeded to grant promotion based on the said provisional list of 2018, just to show compliance in the contempt proceeding initiated at the instance of the private respondents by the Co-ordinate Bench of this Court to avert such contempt proceeding likely to be drawn against them, have



shown compliance by cancelling the appointment of these petitioners in violation of the principles of natural justice and as also the relevant rules of the Bihar Collectorate Clerical Service Cadre (Recruitment and Service Conditions) Rules, 2013, is wholly unsustainable and cannot be justified in law and further the stand so taken and reason assigned by the respondents for cancellation of promotions of these petitioners, that for showing compliance in the contempt proceedings, the promotions admittedly were granted in haste, which cannot be accepted, because the respondents for justifying the promotion of 2023 have reiterated the similar stand that just to show compliance in the contempt proceedings by the private respondents, the promotions were granted to them based on the provisional seniority list, which till date have not been finalized, as is evident from the pleadings placed on the records of the case. It is surprising that for no prudent reason, the State has come out with provisional seniority list within a period of 01 year 03 months, while there was no occasion for them to publish such provisional list, when according to them the seniority list of Group 'D' employees had already been finalized. While there is nothing on record to show that procedures were followed before finalization. According to the Respondents, the provisional



seniority list dated 04.10.2018 is prepared as per the applicable rules, to settle the seniority which is contained in Memo No. 2003 dated 04.10.2018, as such, the same is required to be made final for the purpose of granting promotions under the prescribed quota from Group-IV to Group-III, by resorting to the procedure as prescribed in law, which has been indicated in the preceding paragraphs to hold such promotions to be duly sanctioned in law.

34. From the stand so taken in their counter affidavit, it is quite evident that the authorities without applying their judicious minds, just to show compliance of the order passed by the Co-ordinate Bench, in which the contempt petition was filed vide MJC No. 4408/2019, the respondents are said to have proceeded to cancel the promotions of these petitioners, but the facts remain that whether such actions of cancellation during the stay directed by the Hon'ble Apex Court and as also by the Co-ordinate Bench of this Court could be sanctified in law. For that, this Court *vide* order dated 01.09.2025, 15.09.2025, 18.11.2025, 25.11.2025 and 28.11.2025 issued directions to the State Counsel by adjourning the cases at their instances to have the stand/response of the respondents concerned, who are said to have violated the order of stay granted in respect of promotions



pending SLP No. 30621 of 2011, before Hon'ble Apex Court, but they chose not to respond on these issues. However, reasons assigned in the recall petition, does not find mention in the order impugned for which interlocutory application is said to have been filed, wherein the reference of pendency of MJC No. 4408 of 2018 is said to have been made and for showing compliance, the promotion *vide* order dated 07.07.2023 is said to have been notified cancelling the promotion of these petitioners, may not absolve the respondents concerned, from having acted beyond his jurisdictional competence to grant promotion during the *status quo* directed by the Hon'ble Apex Court and as also by the Co-ordinate Bench. Such stand of the authorities in showing grounds through affidavit cannot be accepted in view of the judgment rendered by the Hon'ble Apex Court in the case of ***Mohinder Singh Gill & Anr vs The Chief Election Commissioner, New Delhi & Ors.*** reported in ***AIR 1978 SC 851***, where the same is missing from its reasoned order.

35. Since no plausible response is said to have been received from their end, this Court finds it appropriate to deal with this aspect/issues separately, which is left open at this stage. But insofar, as the cancellation of promotions and as also the directions issued by the Regional Deputy Director of



Education holding the eligibility of private respondents fit for promotion is concerned, the Regional Deputy Director of Education, Gayaji has erred in directing the District Education Officer, Jehanabad to carry out the procedures of promotion based on the provisional seniority list of the year 2018 prepared for the purpose of granting promotions to the private respondents for showing compliance of the order in contempt proceeding drawn *vide* MJC No. 4408/2018 is wholly unacceptable in law, as there has been a complete breach of the constitutional scheme and as also the statutory provisions. Taking into account the fact that *vide* impugned orders of cancellation of promotion retrospectively, these petitioners are said to have been demoted and divested of the rights created in them, which is against the constitutional scheme, and is impermissible in law and further action of the authorities to grant promotion based on provisional merit list of 2018, even without adjudicating the objections filed by the objectors and thereby giving finality to the tentative list of the year, 2018, this Court finds it appropriate to set aside the orders as contained in Memo No.574 dated 26.06.2018 issued by Regional Deputy Director of Education, Gayaji (appended as Annexure-13 of CWJC No. 2163 of 2019) and as also the follow up action pursuant to which the proceedings of



the Establishment Committee dated 07.07.2023 were drawn and promotion order as contained in Memo No.1914 dated 07.07.2023 (appended as Annexures-21 and 22 of CWJC No. 10483/2023) respectively are said to have been issued demoting these petitioners and granting promotions to the private respondents. Accordingly, the concerned authorities are directed to carry out the following direction(s) :-

“(i) The Regional Deputy Director of Education, Magadh Division, Gayaji, Bihar is directed to issue appropriate directions upon the District Authorities to finalize the provisional seniority list dated 03.10.2018, which is contained in Memo no. 2003 dated 04.10.2018, after adjudicating the objections of all the employees, who are said to have filed their objections pursuant to Memo No. 2003 dated 04.10.2018, if need be, fresh notice may be issued inviting objections to ensure fairness by making a rigorous verification of certificates of all those, against whom, there is an objection/allegations of manipulation, and frauds are made on account of such certificates having not been placed on time and such inquiry may



include/involve direct verification from the issuing authority/institute from where they are claiming to have gathered experiences, before publishing the final seniority list of Group 'D' employees and the entire exercise for publication of final seniority list, shall be completed in three months from the date of production of copy of this order.

(ii) The Regional Deputy Director of Education, Magadh Division, Gayaji, Bihar, on finalization and publication of final seniority list, within the time specified, would direct consideration of the case of all Group 'D' employees, who are found within the zone of consideration for promotion to Class-III within 15%, quota by placing their cases before Departmental Promotional Committee/ Establishment Committee to consider the individual cases of all the eligible employees of Group 'D', who are entitled in terms of the Bihar Collectorate Clerical Service Cadre (Recruitment and Service Conditions) Rules, 2011 and amended Rule 2013 and as also following the rules of reservation and



applicable roster published for promotion strictly in consonance with the constitutional scheme and entire exercises for grant of promotions to the eligible persons shall be concluded with a further period of two months.

(iii) With the setting aside of the impugned order dated 07.07.2023, by which the promotions granted to these petitioners were cancelled, for granting promotion to the private respondents, by cancelling the promotion granted to these petitioners *vide* order no. 555 dated 16.03.2018, will not revive automatically rather the same is made dependent over the promotions which are likely to be notified on the recommendation of the District Establishment, made for granting promotions to Class-III from amongst the persons eligible from Class-IV employees, within the time specified for the purpose of continuity in Class-III service.

(iv) All promotions granted to Class-III either on the basis of final seniority list of the year



2017 or based on the provisional seniority list of the year 2018, within 15% limit, which have been held to be unsustainable, as such, the persons, who are working presently on the post of Class-III, would continue on their posts, without creating any rights or equity in their favour, and would be entitled only to receive additional pay not exceeding 20% of his substantive pay attached to the post of Class-IV held and salary being received by them immediately before promotion granted to them *vide* letter dated 07.07.2023 in view of Rule 103 of Bihar Service Code and the Government Circular as contained in Memo no. 1479 dated 30.12.1968, so long, the issue of promotion is under consideration before authorities in terms of the order passed by this Court and final promotions are notified.

(v) The Regional Deputy Director of Education, Magadh Division, Gayaji, Bihar would ensure that on the final adjudication of promotional issues of all the eligible employees being completed followed with the recommendation of Departmental Promotion Committee / Establishment



Committee, having culminated into promotional orders getting notified and the persons, already promoted on the strength of order dated 16.03.2018 and 07.07.2023, do find place in the said list of Class-III, their continuity on such post, would reckon from the date of their respective promotions, which were granted in their favour at the relevant time, as no such challenge to the date promotions of these petitioners has ever been a subject matter before this Court in any of the proceeding and accordingly, they would be entitled to salary from the date of their entitlement.

36. Accordingly, both these writ petitions stand disposed of with the observations and directions indicated hereinabove.

37. Pending Interlocutory Application, if any, stands disposed of in the above terms.

Issues pertaining to initiation of contempt proceeding:

38. From the records, it is quite apparent that the entire mess is said to have been created by the District



Education Officer, Jehanabad, who is said to have violated the orders of the General Administration Department as contained in letter no.5066 dated 11.04.2019, whereby the regular promotions on all of the posts in the services of the State Government were stayed in the light of orders of the Hon'ble Apex Court as also by the Co-ordinate Bench of the Hon'ble High Court but violating the same, *vide* impugned order as contained in Memo No. 1914 dated 07.07.2023, is said to have been issued in breach of principles of natural justice by cancelling the promotions, which were granted to these petitioners in compliance of the direction issued by the Hon'ble Court on their writ petition being CWJC No. 17793 of 2016. Since the Director, Secondary Education had already noticed this fact and directed seeking explanation for such violations made by the District Education Officer, Jehanabad, as is apparent from the letter no. 195 dated 11.08.2023, still nothing is said to have been done at his end and this Court granted opportunity(s) to these two Government Officials to file their respective responses with regard to corrective measures taken in this respect but no such response has been filed by them and accordingly, this Court is left with no option but to draw adverse view against them, and as such, this Court is of the opinion that



these two Government Officials being Sri Kanhaiya Prasad Srivastava, I.A.S, Director, Secondary Education Bihar, Patna and Sri Vidya Sagar Singh, District Education Officer, Jehanabad are *prima facie* in contempt of Court for violating the directions issued by the Hon'ble Apex Court and as also the Co-ordinate Bench and since, there is already a contempt proceeding pending, which is said to have been drawn/initiated by the Hon'ble Division Bench in the case of ***Arbind Kumar & Ors vs. State of Bihar & Ors (MJC No. 2847 of 2018)***, under similar background/circumstances, where the Government Officials have been found to have committed gross violation of the stay orders of the Hon'ble Courts, this Court instead drawing separate proceedings finds it proper to tag this case with the aforesaid case, for taking suitable action against these two persons and accordingly, this Court appropriately directs this matter to be tagged along with the aforesaid case (***(MJC No. 2847 of 2018)***), for this limited issues, for its consideration and passing appropriate orders against these two Government officials, for having violated the direction issued by the Hon'ble Apex Court dated 15.04.2019 passed in SLP No. 30621 of 2011 and order dated 01.04.2019 passed in MJC No. 2847 of 2018 arising out of CWJC No. 19114 of 2012, after taking necessary



permission from the Hon’ble the Chief Justice.

39. At the time of pronouncement of the judgment and having disclosed the mind to send this matter to be tagged with the MJC No. 2847 of 2018, a prayer has been made from the State Counsel to take a lenient view in the matter and therefore, this Court, after having given a conscious thought in the background that the decision to cancel the promotion unilaterally for granting promotions to the employees from the same cadre, has already been set aside by this Court, therefore, instead sending this matter to be tagged with the aforesaid case, for the present, refrains from doing so, by just cautioning the officers concerned to be more careful and cautious who would be ensuring such act not being repeated/committed in future.

40. However, the petitioners will always be at liberty to explore the remedies as provided in law for seeking intervention in such matters.

perwez

(Ajit Kumar, J)

AFR/NAFR	AFR
CAV DATE	05.01.2026
Uploading Date	30.01.2026
Transmission Date	N/A

