

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1746 of 2026

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Kaushal Kishore Sharma Son of Late Mundrika Singh, Resident of - At P.O. -
Chesi, P.S.-Nabutpur, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Secretary, Secondary Education, Government of Bihar, Patna.
4. The Director, Secondary Education, Government of Bihar, Patna.
5. The District Education Officer, Patna.
6. The District Programme Officer, Patna.
7. The Headmaster, Project Balika Uchcha Vidyalaya, Nabutpur, Nagwa, District-Patna.
8. The Accountant General (A and E) Bihar, Veerchand Patel Path, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Vikramadit, AC to SC-22
		Mr. Raj Nandan Prasad, Advocate
		Mr. Vishesh Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

2 03-02-2026 Heard learned counsel for the petitioner and

learned counsel for the respondents.

2. The instant writ application has been filed seeking a direction to the respondents to make payment of the differential arrear salary with effect from 01.01.1989, granting approval of the petitioner's service as a trained teacher up to the date of retirement, i.e., 30.04.2019, along with the revised pay scale with due interest, and to make payment of the revised pension



and other differential pensionary benefits forthwith, in terms of the resolution contained in Memo No.39P dated 05.03.2018, issued by the Department of Education, Government of Bihar, and in compliance with the notification contained in Memo No.92P dated 31.05.2018, issued by the Department of Education (Bihar Secondary Education Office), Government of Bihar. The petitioner seeks approval of service similar to that granted to certain teachers, with effect from 01.01.1989 instead of 25.01.2000, wherein the petitioner's name stands at Sl. No.13, by virtue of the Acharya Degree being treated as equivalent to a trained teacher, which gets substantiated by Memo No.6066 dated 24.11.1986 issued by the then Director-cum-Joint Secretary, Education Department, Government of Bihar, Patna, and upheld in various orders passed by this Court and the Hon'ble Apex Court.

3. Learned counsel for the petitioner submits that the petitioner was appointed as Assistant Teacher (Sanskrit) in Project Balika Uchcha Vidyalaya, Nabutpur, Nagwa, District Patna, which was established well before the year 1984 by the Managing Committee. The petitioner was appointed after due assessment of his qualifications and eligibility for the said post, and accordingly, he was appointed on 28.04.1982. It is further



submitted that the petitioner has an unblemished career and has never been subjected to any departmental enquiry or any proceeding of a kind, which could hinder grant of such promotion.

4. It is next submitted that the petitioner's services were recommended with effect from 01.01.1989, and the monetary benefits have been extended to him from the date of such recommendation. However, the scale of pay applicable to a trained teacher, based on his qualification of Acharya, has not been granted. It is submitted that the State Government had taken a policy decision, under which, in the first phase, the trained pay scale was extended to persons appointed in the year 1981-82. In the second phase, however, the benefits under the same policy have not been extended to persons appointed after 1984-85, including the petitioner.

5. It is further submitted that similar issues were brought to the notice of the coordinate Bench in CWJC No. 20719 of 2014, and the Hon'ble Bench disposed of the writ petition with a direction to the Director of Secondary Education to scrutinize the grant of trained pay scale on the basis of the Acharya qualification, which has already been approved by the authorities. The issue has thus been settled insofar as Sanskrit



teachers are concerned, the reference of which can be read from the direction issued vide order dated 01.10.2018 passed in CWJC No. 20719 of 2014, holding that the trained pay scale be granted after examining the bona fides of teachers claiming such pay scale on the basis of qualifications obtained, specifically the degree of Acharya or Fazil, prior to the commencement of the NCTE Act, 1993. The State Government had challenged the order passed by the coordinate Bench in CWJC No. 20719 of 2014 vide LPA No. 538 of 2019, in which, after due deliberation, the following order was passed:

“....3. Perusal of the aforementioned information, one cannot draw inference as to whether respondent Arun Kumar Rai service particulars have been taken into consideration for the purpose of implementation of the orders of this Court in the case of State of Bihar vs Project Uchcha Vidya Sikshak Sangh And Others reported in 2006 (1) PLJR (SC) 483.

4. Further, it is necessary to take note of para 16 of the Committee Report which is enclosed alongwith the first supplementary and it is reads as under:-

“16. Among the teachers appointed in Sanskrit subject, those who have acquired the qualification of Acharya have been considered as trained teachers in the light of the prevailing rules of the government. But keeping in mind the essentiality of training, this committee recommends that teachers having the qualification of Acharya in Sanskrit subject and working as teachers in the same subject should obtain the degree of B.Ed. At one's own expense within three years, otherwise promotion and other benefits (including



salary increment) will not be payable to them and the government will be able to terminate their service.”

5. Reading of the aforementioned paragraph, committee has exceeded its jurisdiction insofar as prescription of certain qualifications to such of those have qualifications of Acharaya. It is the domain of the State Government to prescribe qualification. In the light of the Hon'ble Supreme Court decision in the case of P.U. Joshi Vs. Accountant General reported in (2003) 2 SCC 632, Para 10 which reads as under:-

10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There



is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service.

6. Be that as it may, reading of the full Bench decision of this Court in particularly para 35 in the case of Project Uchchavidyalaya Sikshak Sangh and Others Vs. State of Bihar (FB) reported in 2000 (1) PLJR 287 read with Hon'ble Supreme Court decision cited (supra) namely para 83, there is no judicial direction for the committee to prescribe qualification. Therefore, para 16 of the report is not in the light of the observation made by this Court and the Hon'ble Supreme Court. Hence, any reliance on Para 16 to interfere with the Single Judge order passed in C.W.J.C. No. 20719 of 2014 has not been made out in the present L.P.A. No. 538 of 2019 (The State of Bihar and others Vs Arun Kumar Rai).

7. Accordingly, the present L.P.A. No. 538 of 2019 stands dismissed.”

6. It is next submitted that after the disposal of LPA No. 538 of 2019 by the Division Bench, the said judgment was challenged by filing SLP (C) Diary No. 4431/2025, which was also dismissed on 03.03.2025. In the said order, it was observed that the Court is not inclined to interfere with the impugned judgment and order passed by the High Court.

7. On the other hand, learned counsel for the State does not dispute the factual position on record, as the issues



have been laid to rest and the judgments passed by the Hon'ble Coordinate Bench, as well as the Hon'ble Division Bench, have attained finality at the level of the Hon'ble Apex Court. Appropriate directions can, therefore, be issued to the Director of Secondary Education to take a final decision regarding the petitioner's claim.

8. Considering the submissions of the parties, this Court is of the view that an appropriate representation, along with all supporting documents and a copy of this order, shall be placed before Respondent No. 4 for consideration. Upon filing such representation, the same shall be adjudicated within twelve weeks, strictly in accordance with the parameters laid down by the Hon'ble Apex Court in the aforementioned judgment. If the petitioner's claim is found to be justified, the trained pay scale shall be extended in his favour within the same period.

9. With the aforesaid observations and directions, the instant writ application is disposed of.

(Ajit Kumar, J)

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