

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7854 of 2018

=====

Bharat Kumar Son of Sri Surajdeo Narayan Bhakth, Resident of Village-
Pipra Biso, P.O.- Rajepur, P.S.- Baruraj, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Programme Officer Establishment, Muzaffarpur.
3. The Block Education Officer, Motipur, P.O. and P.S.- Motipur, District-
Muzaffarpur.
4. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Bipin Bihari Singh, Mr. Prashant Kumar, Advocates.
For the Respondent/s	:	Mr.Vivek Prasad -GP7

=====

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

8 30-06-2026 Heard the parties concerned.

2. The present writ petition has been filed for the
following relief(s):-

*“1. That the writ petition is being
preferred against the order passed by Regional
Deputy Director of Education, Tirhut Division,
Muzaffarpur refusing his candidature for
promotion in trained graduate scale and against
respective post of Headmaster taking into
consideration that the qualification of B.C.A.
possessed by him is equivalent to graduation and
subsequently he improved the qualification of post*



graduate but it was refused unreasonably and arbitrarily despite several candidates who are identical and even junior to him were considered and promoted to respective post and in that score the order under challenged is suffered from nullity including requirement of natural justice and additionally right of equity and the further prayer for grant of promotion from date junior to him were promoted and benefited for purposes to remove discrimination and maintain equity amongst equal and for other necessary relief/reliefs to the basis of the facts and circumstances enumerated and discussed hereinafter.”

3. Learned counsel for the petitioner submits that the petitioner was initially appointed as Assistant Teacher on the basis of intermediate qualification and subsequently, he is said to have acquired degree of Bachelor in Computer Application in Second Class in the year 2004 from Indira Gandhi National Open University. The case of the petitioner for promotion has been rejected on the ground that the degree of Bachelor in Computer Application, which is a professional degree, cannot be considered for promotional benefits, while the case of the



petitioner is that based on the said qualification, the petitioner has obtained Post-Graduation degree of Master in Arts from Indira Gandhi National Open University in the year 2014 and, the authorities may not have any difficulty in considering the case of the petitioner for grant of promotion.

4. It has next been submitted by referring to the order of the Co-ordinate Bench passed in ***CWJC No. 4401 of 2023 (Chandra Bhushan Pd. Singh & Ors. v. The State of Bihar & Ors)*** that the issues at hand has been considered in a case, where the candidate subsequently, has acquired M.A degree, in such event, the consideration for promotion is required to be made on the basis of higher qualification earned by the candidate and in order to buttress his submission, learned counsel for the petitioner relies upon paragraphs 13, 16, 17, 18, 19 of the said judgment which are reproduced hereinbelow:-

“13. In the case of Ganesh Prasad Srivastav v. Punjab National Bank through its Chairman and others, reported in 2004(1) PLJR 387, the matter was related to the promotion in the rank of clerk on the strength of Sahitya Alankar degree issued by the Hindi Vidyapith Deoghar. The factual matrix as well as the premise for consideration in that case is quite different as claim was being made for the promotion to the post of clerk on the strength of certificate of Hindi



Vidyapith Deoghar. There the Bank on the basis of circular issued by the Indian Banker Association had advised all the Banks that Sahitya Alankar degree along with English from the Hindi Vidyapith Deoghar was not recognized as to the B.A. degree, as that degree has been provided by the Voluntary Hindi Organization which has effect only with regard to the standard of Hindi prescribed in the equivalent Hindi Examination and it cannot be treated as full-fledged degree/diploma or certificated awarded by University or Education Boards. In the present case here the appellant is not claiming the benefit on the basis of Sahitya Alankar but as per the claim as he has acquired M.A. degree he should be given B.A. trained scale. He has nowhere claimed that he should be given the benefit on the premise of Sahitya Alankar. As in that case it has been recorded that Government of India has recognized the Organization in question, for the sole purpose of propagation and promotion of Hindi. It provides that in case of employment service, if Hindi is required to be a special qualification then the candidates may be eligible for the said employment but in case any other qualification other than the Hindi is required then the certificate granted by the Voluntary Organizations cannot be treated to be equivalent to a certificate, degree or diploma conferred by the different Universities and the same will not be recognized as qualification of



High School, Intermediate or B.A.

16. In the case of G. Ravi Kumar (supra) there the person after obtaining High school degree without obtaining intermediate qualification obtained B.A. degree from Open University established under the Act of legislature. This case is also for promotion as person was working as sub-ordinate staff claiming promotion to the post of clerk. His case was not considered as he had not basic qualification of intermediate, the Court held that when he has obtained higher degree, rejected the contention that. he does not possess the qualification of Intermediate, is of no relevance. It will be relevant to quote paragraph 13 of the aforesaid judgment:

"13. Therefore, there cannot be any doubt that BRAOU is an University established under Andhra Pradesh Open University Act, 1982, and as noticed by Division Bench in Muthyala Ashok (supra), it is recognized by Government of India as well as Government of Andhra Pradesh for the purpose of recruitment in public services. Indeed Division Bench accepted plea that degree awarded by BRAOU is superior to intermediate qualification prescribed under relevant provision of Ministerial Service Rules. Therefore petitioner herein cannot be said to be disqualified merely because he directly appeared for B.A. examination conducted by BRAOU without basis qualification. Very



concept of Open University is to encourage citizens to acquire better qualification ignoring whether or not they were having pre-degree qualification. One should not forget that under Article 51A(j) of Constitution, it shall be duty of every citizen to 'strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement'. If a citizen acquired higher qualification even though he denied opportunity to acquire pre-degree qualification by reason of social and economic backwardness, he cannot be turned away on the ground that though he has higher qualification, he lacks basic qualification."

17. On conspectus of the fact and the issue involved in the present case, this Court is of the view that there is no need for any reference to the larger Bench as the judgments that have been cited by the State are quite on different fact and point of law involved. This Court is of the view that there is no error or there is no any confusion in the order of the Division Bench in the case of Dr. Amresh Thakur (supra) as a person he has obtained higher degree whatever the infirmity was there will be treated to have been removed as the petitioner has obtained M.A. degree from a recognized institution.

18. In such view of the matter, this Court directs the respondent authority to grant the benefit



of B.A. trained scale if the petitioners fulfill other eligibility criterion.

19. Accordingly this writ petition is allowed.”

5. On the other hand, learned counsel for the submits that if the petitioner has acquired the post graduate degree which is duly recognized and if the rule permits such consideration, appropriate direction may be given to the authorities concerned for grant of promotion on the post of Headmaster.

6. Considering the fact that the qualification of post-graduation earned by this petitioner which is duly recognized and the same having not been considered by the impugned decision as contained in Memo No. 497 dated 29.03.2018, which is put to challenge, and accordingly, the same set aside and Respondents are directed to consider the case of this petitioner strictly in consonance with the decisions rendered by the Co-ordinate Bench of this Court in the case of **Chandra Bhushan Pd. Singh (supra)** and as also by referring to the Rules which is in vogue.

7. It is expected that on filing of the representation with all supporting materials by the petitioner along with the order passed by this Court in this case and as also the other



judgments, which the petitioner proposes to rely upon, the authorities concerned shall take final decision within a period of three months from the filing of the representation and on finding the claims of the petitioner to be justified, an appropriate order shall be passed and all consequential benefits shall be extended to the petitioner within the same time.

8. The writ petition stands disposed of.

(Ajit Kumar, J)

perwez

U			
---	--	--	--

