

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5441 of 2019

- 1.1. Nirmala Choudhary W/o Late Govind Pd. Choudhary, Resident of Village- Maniksarkar, Ghat Road, Police Station- Adampur, District- Bhagalpur.
- 1.2. Neeraj Kumar Son of Late Govind Pd. Choudhary, Resident of Village- Maniksarkar, Ghat Road, Police Station- Adampur, District- Bhagalpur.
- 1.3. Naveen Kumar Ranjan Son of Late Govind Pd. Choudhary, Resident of Village- Maniksarkar, Ghat Road, Police Station- Adampur, District- Bhagalpur.
- 1.4. Aman Sharna Daughter of Late Govind Pd. Choudhary and W/o Late Sudhir Kumar, Resident of Village- Kothwan Bagicha Danapur, Police Station- Rupaspur, District- Patna.
- 1.5. Suman Kumari Daughter of Late Govind Pd. Choudhary and Wife of Manoranjan Kumar, Resident of Village- Saidpur, Police Station- Gopalpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Collector, Bhagalpur.
5. The District Education Office, Bhagalpur.
6. The Regional Deputy Director of Education, Govt. of B Bihar, Patna.
7. The District Programme Officer (Establishment), Govt. of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Yogendra Mishra, Adv. Ms. Swati Mishra, Adv. Mr. Arvind Kumar Jha, Adv.
For the Respondent/s	:	Smt Binita Singh (SC 28)

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

6 27-07-2026 Heard learned counsel for the petitioners and learned
counsel for the Respondents-State.

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

“i) An appropriate writ/order or



direction, quashing the letter dated 25.01.2019 issued by Respondent No. 6 as contained in Annexure- 7 declaring the same as illegal, arbitrary and void, be issued.

ii) An appropriate writ/order and direction, commanding the respondents specially the respondent no. 6 to grant senior selection grade with effect from 28.11.1990 and fix salary of the grade in terms of Annexures: 1, 2 & 3 and make payment of the enhanced salary within a time frame, be issued.

iii) An appropriate writ/order or direction granting any other relief to which the petitioner is found entitled to, be issued.

3. Learned counsel for the petitioner submits that during pendency of the writ petition, the original petitioner, who was appointed as Assistant Teacher in a recognized school having the qualification of M.Sc. (Math), B.Ed on 28.11.1978, is said to have expired and the widow petitioner is said to have substituted the original writ petitioner namely, Gobind Prasad Chaudhary. It has next been submitted that the school of the petitioner was taken over by the State Government on 02.10.1980 in view of the Resolution No. 6022 dated 18.12.1989, and the said decision shows intention of the



Government to revise the scale of pay of teachers working in the school, which were taken over under administrative control of Human Resource Development Department.

4. It has next been submitted that as per Rule 13(ii) dated 18.12.1989, all those teachers who were in receipt of promotion or time bound promotion into the Junior Selection grade and had completed 12 years of service in the basic grade prior to 1st January, 1986 would be entitled to have their pay fixed in the Revised senior scale as is indicated in Scheduled-II. It is the case of the petitioner that despite such eligibility having been acquired by this petitioner for grant of Senior Selection grade, the said benefits have not been extended.

5. Learned counsel for the petitioner next submits that for similar relief, this petitioner had moved this Court on earlier occasion *vide* CWJC No. 14687 of 2014 and taking note of the contention of the Respondents in the counter affidavit that petitioner does not come in 20% quota wherein the Co-ordinate Bench recorded the statement as would be evident from paragraph-7 of the order dated 24.09.2018 passed in CWJC No. 14687 of 2018 that there is a variance in the stand taken by the Respondents as the averments so made by the Respondents in the counter affidavit is in conflict with the statement made in



paragraph-11 of the rejoinder to the counter affidavit wherein the petitioner has taken specific stand that 20% quota which has been fixed/earmarked for promotion in which the case of the petitioner falls for consideration and is entitled to grant of Senior Section Grade Pay Scale and such submission of the learned counsel for the petitioner, made in the rejoinder to the counter affidavit, has not been controverted as is evident from the observation made in the order dated 24.09.2018 passed in CWJC No. 14687 of 2018 and it is in this, background, the Co-ordinate Bench directed the Respondents to complete the entire exercise for grant of promotion in the Senior Selection Grade by taking appropriate decision.

6. After disposal of the said case, the Respondents are said to have passed an order as contained in Memo No. 205 dated 25.01.2019 and the claim for grant of promotion in the Senior Selection Grade has been rejected by passing a very cryptic order wherein the said order does not indicate as to who are the persons who have been extended the benefits of such scale and were senior to this petitioner and owing to his status in the seniority list, the petitioner did not fall within the zone of consideration, due to which, the case could not be considered being beyond the percentage prescribed for promotion.



7. On the other hand, learned counsel for the State by referring to the stand taken in the counter affidavit submits that since this petitioner did not fall within the zone of consideration, therefore, the case of this petitioner could not be considered.

8. Considering the fact that there is nothing on record to show that the consideration by the Promotion Committee so constituted to address the claim of the petitioner has not appropriately been made in terms of the observation made by the Co-ordinate Bench in CWJC No. 14687 of 2014 and as also taking note of the Resolution No. 6022 dated 18.12.1989, this Court is convinced that there has been infraction of provisions as contained in Resolution No. 6022 dated 18.12.1989, whereby the school was taken over, which provides for grant of promotion in Senior Selection Grade.

9. Taking into account such violations of provisions and as also appropriate consideration having not been made in this case and coercing this petitioner to take steps for filing another writ petition, this Court finds it appropriate to set aside the order as contained in Memo No. 205 dated 25.01.2019 and accordingly, directs the Respondent No.6, to appropriately consider the case of this petitioner, who is widow of the deceased employee, said to have died during pendency of the



present writ petition and by giving appropriate consideration and finding the deceased/petitioner being entitled to such benefits, through appropriate decisions grant all such benefits, for which the deceased is found entitled by extending the same to petitioner, after verifying the *bona fide*, who is widow, within a period of twelve weeks from the date of production/receipt of a copy of this order.

10. The writ petition, with the above observation and direction, stands disposed of.

(Ajit Kumar, J)

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