

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10558 of 2019

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Fulwanti Devi Wife of Late Sri Krishna Prasad Srivastava, Resident of
Village - Pirauta, Police Station - Muffasil, Ara, District- Bhojpur at Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna
2. The Director Primary Education, Govt. of Bihar, patna
3. The Regional Deputy Director of Education Govt. of Bihar, Patna
4. The District Magistrate Bhojpur at Ara
5. The District Education Officer Bhojpur at Ara

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ranjan Kumar Singh Mr.Sumit Kumar Srivastava Mr.Gayatri Kumari
For the Respondent/s	:	Mr.Madhaw Prasad Yadav (Gp23)

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL JUDGMENT

Date : 02-02-2026

In the instant writ petition, petitioner has prayed for
the following relief(s):-

*“That this is an application for
issuance of an appropriate writ in the nature
of mandamus for commanding the
respondents to grant promotional avenue to
the petitioner in terms of the judgment of
Full Bench (Ram Nath Prasad Singh & Ors.
vs. The State of Bihar & Ors.) vide
order/judgment dated 21.04.2009 inter-alia
at the time of appointment petitioner having
qualification of post graduate trained
although petitioner was appointed in the
Matric trained pay scale and also for a
direction to grant due promotional avenue
with due date for all practical purposes i.e.
after granting appropriate grade for
rendered service of 12 years and 18 years*



respectively, for which petitioner is entitled for with applicable rate of interest.”

2. The instant writ petition has been filed for commanding the respondents to grant the promotion avenues to the petitioner in terms of Hon'ble Full Bench judgment in the case of ***Ram Nath Prasad Singh vs. State of Bihar & Ors.*** reported in ***2009(3) PLJR 384.***

3. Counsel for the petitioner submits that petitioner has already acquired B.A trained degree and as also Post Graduate trained degree, but for no obvious reasons, the trained pay scale was not allowed to this petitioner, and the petitioner is said to have died during pendency of the writ petition, and the widow of the deceased employee is said to have substituted. The deceased employee was claiming the promotional pay scale in the light of the judicial pronouncement made in the case of ***Ram Nath Prasad Singh*** (supra), by which the issues have been settled.

4. It is the case of the petitioner that the deceased employee was initially forced to file the writ petition for grant of B.A trained and post graduate trained pay scale by filing a writ petition being CWJC No. 14726 of 2007 and *vide* order dated 25.11.2011, the same has been disposed of, directing the respondents to consider strictly in accordance with seniority list



already prepared by them to grant the trained pay scale by passing necessary order.

5. It is further stated that despite representation having been made, no consideration was done, leading to filing of MJC No. 6477 of 2013, in which a categorical stand was taken by the respondents that on account of pendency of the departmental inquiry as well as criminal case, for which this petitioner was placed under suspension, for embezzlement of an amount to the tune of Rs. 10,60,000/-, the benefit for the grant of promotion of the trained pay scale, was not allowed in favour of the petitioner, and taking into account such stand of the respondents, the contempt petition was dismissed.

6. This Court by taking note of the stand so taken in the contempt petition, had passed the order, directing the respondents to file appropriate affidavit bringing on record, the status of the pending of departmental inquiry and as also the vigilance case, which is said to have been lodged against this petitioner and as also the relevant records to support such contentions, the material extract of the order dated 06.01.2026, is being re-produced as under:-

“3. It is made clear that if the relevant records as desired by this Court is not produced on the next date of hearing, this Court will presume that there is no



departmental enquiry as also vigilance case is pending against the petitioner and would proceed to pass order on the basis of the materials available on record.”

7. Pursuant to the order passed by this Court, supplementary counter affidavit has been filed on behalf of the Respondent No. 5 – District Education Officer, Bhojpur at Ara, in which it has categorically been stated that despite best effort, the trace of pendency of employee departmental inquiry and as also the vigilance case pending against this petitioner could not be made and the stand so taken in Para 4 of the supplementary counter affidavit is re-produced as under:-

“4. That with respect to the aforesaid direction of the Hon'ble Court, the answering deponent humbly submits that the instant petitioner was superannuated from service on 31.01.2013 since it is too old matter and in between 2013 to 2025, two times the place of the office of the District Education Officer has been changed due to this reason the file related to departmental proceeding with respect to the petitioner has not been located till date. In such a situation, the answering deponent seeks further four weeks time in the present matter so that the answering deponent may be enable to apprise the court with regard to the status of the pending departmental proceeding/FIR.”

8. Heard counsel for the parties, this court on consideration of the materials on record finds that the writ petition



is of the year 2019, and even after lapse of about six years, the authorities have not been able to trace the record, and as such with the specific stand so taken by the respondents that neither the records of departmental inquiry nor the vigilance case could be traced/located in the Office till date. In such view of the matter, this Court finds it appropriate to direct that now authorities are under legal obligation to ensure compliance of the order dated 25.11.2011, which is said to have been passed in the case of this petitioner in the writ petition filed by him in the year 2007 being CWJC No. 14726 of 2007, issued relying upon the judgment of ***Ram Nath Prasad Singh vs. State of Bihar & Ors.*** reported in ***2009(3) PLJR 384***, and the direction so issued for consideration, could not be made owing to the stand taken that there is a departmental inquiry as well as criminal case is pending against the petitioner. The extract of the order is being reproduced as under:-

“None appears for the petitioner.

*Counsel for the State is present and has filed his counter affidavit, wherein, it has been stated that the issue raised by the petitioner in this writ application relating to grant of B.A trained scale of pay to him is under active consideration with the Authorities, who have already drawn the gradation list in terms of the judgment of the Full Bench in the case of **Ram Nath Singh & Ors vs The State of Bihar & Ors, 2009 (3) PLJR 384** and the case of the petitioner will*



be considered for grant of B.A trained scale of pay when his turn would come as per the seniority list.

That being so, this application is disposed of with a direction to consider the case of the petitioner strictly in accordance with the seniority list already prepared by them and also grant the benefit of B.A trained scale of pay to the petitioner from due date.

With the aforementioned observation and direction, this application is disposed of.”

9. In the instant case, there is a specific stand taken by the State-respondent that they have not been able to locate any record pertaining to departmental inquiry as well as the criminal case pending against the husband of this petitioner, who is said to have died during pendency of the case. This Court accordingly directs the District Programme Officer to comply the direction dated 25.11.2011 issued in the case of this petitioner being CWJC No. 14726 of 2007, by adjudicating the claim with regard to grant of trained pay scales, for which the deceased employee, namely, *Late Krishna Prasad Srivastava* is found entitled and appropriate pay scale be granted to the deceased employee by completing the formalities within a period of six weeks from the date of representation, which would be filed by the petitioner, within a period of four weeks from today.

10. Needless to say, that this case has to be given priority, insofar the consideration of grant of pay scale is concerned because, delay is occasioned only on account of callous



affidavit said to have been filed on behalf of the State-respondent wherein, owing to the pendency of departmental inquiry as well as criminal case, appropriate consideration has not been made and even after a lapse of almost 14 years, the respondents are not in a position to apprise the status of pendency of departmental enquiry and as also the criminal case and the records are not being located.

11. Be that as it may, now in the facts of the present case, it is required that appropriate considerations be made as per the time fixed, to do complete justice in the matter by the authorities. Accordingly, the instant writ petition stands disposed of, in above terms.

(Ajit Kumar, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.02.2026
Transmission Date	NA

