

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.666 of 2025

In

Civil Writ Jurisdiction Case No.8407 of 2021

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Sudha Trivedy wife of Siyaram Pandey, resident of E/105, Pushpanjali
Vihar Apartment, Saristabad, P.S.-Gardanibagh, District-Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. Of Bihar Patna.
2. The principal Secretary Education Department, Govt. of Bihar Patna.
3. The Director, Higher Secondary Education Department, Govt. of Bihar, Patna.
4. The Deputy Director, Higher Secondary Education Department, Govt. of Bihar, Patna.
5. The District Magistrate, Vaishali.
6. The Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad- Vaishali.
7. The District Education Officer Vaishali.
8. The District Programme Officer (establishment), Vaishali.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Siyaram Pandey, Advocate

For the Respondent/s : Mr. P.K. Verma, A.A.G.-3

Dr. Mankeshwar Tiwari, A.C. to A.A.G.-3

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-01-2026



appellant, Sudha Trivedy challenging the order dated 01.05.2025 passed by the learned Single Judge in C.W.J.C. No. 8407 of 2021.

1.1 The appellant filed the writ petition with the following prayers:-

“(I) For issuance of writ of certiorari for setting aside/quashing Para no. (2.8) of file no.11/bi 1-8/2013-1530 dated 11/8/2015 issued by the education department, Gov. of Bihar, Patna (annexure-6)

(II) and be pleased to pass a writ in the nature of writ of mandamus or an appropriate writ/writs, order/orders or direction/directions commanding the respondents to fix and make payment of salary to the petitioner with adding/calculating grade pay in the pay band- 5200-20200 with grade pay 2800/ and other benefits like a regular trained assistant teacher as per the letter issued in this regard by the Govt. of Bihar as contained in sankalp sanchika no.11/bi 1-08/2013(ansh-2)1632 dated 21-06-2017(Annexure-7) for which the petitioner is legally entitled for And/or be pleased to pass such other order or orders which may be deemed fit and proper in the facts and circumstances of the case.”

1.2. The grounds for seeking the relief in the writ



petition are as follows:-

(i) For that the action/inaction of the respondent authorities are otherwise bad in the eye of law.

(ii) For that the petitioner who is a trained (B. Ed) +2 Hindi teacher appointed after following due process of law but while making payment of salary the same is fixed without grant of grade pay, likewise an untrained employee/teacher, in a wrong and illegal manner.

(iii) For that the Education Department, State of Bihar, vide its sankalp bearing file no. 11/bi1-08/2013 (ansh-2)1632 dated 21-06-2017(annexure-7) clearly states that a higher secondary trained teacher (10+2) is entitled for a salary in the pay band 5200-20200 with grade pay 2800 and as per the above notification the basic revised salary is to be fixed to a trained teacher but while fixation of salary no grade pay is granted/calculated and wrong/less salary is being fixed and paid to the petitioner which is causing financial loss to the petitioner, amounting violation of the fundamental right of a citizen.

(iv) For that the action of the respondents are illegal, arbitrary, discriminatory and not sustainable in the eye of law.

(v) For that the action of the respondents are against the objective of article 14, 16 and against article 21 of the constitution of India.



2. The counter affidavit has been filed by the Respondent No. 2 wherein it has been stated as follows:-

"5. That it is most humbly submitted that the instant case has been filed by the petitioner inter alia for issuance of a writ in the nature of certiorari for setting aside / quashing paragraph no. 2.8 of file no. 11/bi.1-8/2013 - 1530 dated 11.08.2015 issued by the Education department, Government of Bihar, Patna (Annexure P/6 to the writ petition) and further for issuance of a writ on the nature of mandamus commanding the respondents to fix and make payment of salary to the petitioner with adding / calculating grade pay in the pay band 5200 - 20200 with grade pay 2800/- and other benefits like a regular trained teacher as per the letter issued in this regard by the Government of Bihar as contained in sankalp sanchika no. 11/bi.1-8/2013 (ansh - 2) -1632 dated 21.06.2017 (Annexure P/7 to the writ petition).

6. That it is most humbly submitted that upon perusal of the records of the writ petition, it transpires that a Counter Affidavit has been filed by the respondent nos. 07 and 08 in this case. However, this Hon'ble Court vide order dated 17.04.2025 has been pleased to observe and direct that:-

"...2. As the learned Counsels appearing on behalf of the state are not able to defend letter



no. 1530 dated 11.08.2015, a request is made to the Additional Chief Secretary, Education Department to connect virtually on 22.04.2025 at 2:15 p.m. to explain the effect of letter no. 1530 dated 11.08.2015 and any similar letter issued by the Education Department affecting the right of Niyojit teachers, who were appointed in terms of Bihar Panchayat Elementary School Service (Appointment, Promotion, Transfer, Disciplinary Proceedings and Service Condition) Rules, 2006, creating a class within the class of the Niyojit teachers..."

7. That it is most humbly submitted that thus, this Counter Affidavit is being filed in furtherance and also in compliance of the order dated 17.04.2025. This Counter Affidavit is limited to the query made by this Hon'ble Court vide the above mentioned order. The deponent craves leave to file supplementary counter affidavit on any specific issue or otherwise if and when required or directed by the Hon'ble Court.

8. That at the very outset it is most humbly submitted that the primary issue involved in this writ petition i.e., the alleged discrimination against the Niyojit teachers in terms of clause 2.8 of the memo no. 1530 dated 11.08.2015 whereby it has been directed that "the pay scale along with grade pay shall be payable to the librarians, trained elementary, secondary and senior secondary Niyojit teachers or in future Niyojit



teachers after completion of two years of their service. In the period of two years, they shall be paid pay scale in accordance with untrained elementary, untrained secondary and untrained senior secondary teachers" is no more res integra as this state policy has been upheld by the Division Bench of this Hon'ble Court vide judgement dated 10.08.2023 passed in C.W.J.C. No. 2417 of 2022.

9. That it is most humbly submitted that prior to issuance of memo no. 1530 dated 11.08.2015, Niyojit teachers were getting fixed salary until the State Government prescribed Pay structure to Niyojit teachers vide the said Resolution dated 11.08.2015. The intent of the State Government is clearly to provide enhanced financial benefits to the Niyojit teachers and, it was only in continuation of the above Resolution No. 1530 dated 11.08.2015 that Resolution No. 1632 dated 21.06.2017 was also issued sanctioning revised pay to Niyojit teachers and Librarians.

10. That it is most humbly submitted that the resolution dated 21.06.2017 is issued in continuance of the resolution dated 11.08.2015 and further in that series only, the memo no. 1900 dated 04.10.2019 has also been issued."

3. The learned Single Judge after taking note of the pleadings and hearing the learned counsel for the respective parties came to hold as follows:-

"6. Petitioner is aggrieved for non-



payment of Grade Pay which allegedly has been denied to her. Learned counsel submitted that the Resolution No. 1530 dated 11.08.2015, which for the first time, provides for Grade Pay with Pay Scale to trained teachers only after completion of two years of 'Kalavadhi', is not in conformity with the Rules, 2006 as amended till date. In this background, learned counsel submitted that both trained and untrained teachers have been put on the same platform which is discriminatory and requires interference of this Court.

7. A counter affidavit has been filed on behalf of the State duly sworn by the District Programme Officer (Establishment), Vaishali giving information that the Education Department issued Letter No. 1900 dated 04.10.2019 that those trained teachers who have completed two years service after 01.01.2016 cannot be granted Grade Pay, because the provision of the Grade Pay had ended after 01.01.2016. It has further been stated that the petitioner was appointed on 30.03.2019, thereafter after completion of two years Kalavadhi, the petitioner became entitled for Grade Pay 2800, corresponding Level-4, Index-1, as on 10.01.2020, her basic pay was fixed to the tune of Rs.13780/- (Level-1, Index-2) and accordingly, the petitioner is being paid in accordance with law. The petitioner has not been discriminated in any manner.

18. The Grade Pay had come to an end



with effect from 01.01.2016 as a result of 7th Pay Commission. Pay Matrix introduced a simplified, transparent and more efficient system for managing salaries and pension. It merged pay band and grade pay into a single unified level eliminating discrepancies.

19. It has been clarified by learned Advocate General that the petitioner has not been discriminated in any manner rather the Resolution is beneficial in nature irrespective of their appointment as per Rules, 2006. He further explained that the mechanism of giving the benefit of grade pay to the teachers from the date of their appointment subject to kalavadhi of two years to all the Niyojit Teachers is not discriminatory in any manner.

*20. In the present case, the petitioner who was appointed in the year 2019 has already been granted the benefit of grade pay in Level 4, Index – 1 in terms of the Clause 2.8 of the Resolution No. 1530 dated 11.08.2015, which prescribes two years of Kalavadhi from the date of appointment i.e. 10.04.2019. The case of the petitioner is covered by a Division Bench Judgment of this Court **vide Judgment dated 10.08.2023 passed in C.W.J.C. No. 2417 of 2022 (Rajanish Kumar Mishra & Ors. Vs. The State of Bihar & Ors.)**, wherein the Division Bench has held the kalavadhi for a period of two years from the date of initial appointment to be valid. Therefore, no*



interference can be made by this Court in this regard.

21. Clause 2.8 of the Resolution No. 1530 dated 11.08.2015 prescribes Kalavadhi for a period of two years for granting Grade Pay in accordance with the qualification and entitlement which is entirely in domain of the State Government to include such condition which is subject to Kalavadhi of two years to the eligible teachers. The Resolution dated 11.08.2015 cannot be said to be in violation of the Rules framed under Article 309 of the Constitution and the same has been issued in exercise of the power conferred under Article 166 of the Constitution and challenge of the Clause 2.8 of the aforesaid Resolution on the point of discrimination is rejected in the case of the petitioner, who has been appointed after coming into force of the said Resolution."

4. There is no dispute that the Division Bench has considered the Clause 2.8 of Resolution No. 1530 dated 11.08.2015 and has accordingly held that the period of two years from the date of initial appointment is valid. The said judgment passed by the learned Division Bench has not been assailed before the Hon'ble Supreme Court, therefore, in view of the finding given by the learned Division Bench, the learned Single Judge is quite justified in arriving at the conclusion recorded in paragraph no. 21 of the impugned order.



5. In an intra-court appeal, the Division Bench may undoubtedly be entitled to reappraise both questions of fact and law, however, the entertainment of a Letters Patent Appeal is discretionary. Normally, the Division Bench would not, unless there are cogent reasons, differ from the findings of fact arrived at by the learned Single Judge. Even a first appellate court, being the final court of appeal on facts, is required to exercise a certain degree of restraint.

6. In an intra-court appeal, interference with findings of fact is warranted only if the appellate Bench reaches the conclusion that the findings of the learned Single Judge are perverse. The same shall not be disturbed merely because another view, or even a better view, is possible. There should be no interference with or disturbance of the order passed by the learned Single Judge.

7. In essence, a Letters Patent Appeal provides an internal check and balance, ensuring judicial oversight and protecting citizens rights by allowing a thorough review of a Single Judge's decision.

8. After going through the impugned order, which is primarily based on the judgment passed by the learned Division Bench, we find no palpable illegality or perversity therein.



9. Accordingly, we are not inclined to grant the relief sought by the appellant and the Letters Patent Appeal stands dismissed.

(Sangam Kumar Sahoo, CJ)

(Sudhir Singh, J)

Neha/-

AFR/NAFR	
CAV DATE	
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