

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23139 of 2012

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1. Ved Prakash S/O Late Krishna Ballam Kumar R/O Village- Pandaul, P.S. Sakurabad, In The District Of Jehanabad
 2. Pawan Kumar Alok S/O Late Jagat Prasad Singh R/O Village- Dariyapur, P.S. Atri, In The District Of Gaya
 3. Rakesh Kumar Sinha S/O Late Awadh Kishore Prasad Sinha R/O Village + P.O.- Belhari, P.S.- Belagari, In The District Of Gaya
 4. Kumar Ravi Kant S/O Late Bundi Prasad R/O Village- Kajibigha, P.S. Islampur In The District Of Nalanda
 5. Murari Mishra S/O Krishna Mishra R/O Village- Budhwara, P.S. Govindpur In The District Of Nawada

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Department Of Education, Government Of Bihar, Patna
2. The Director, Primary Education Government Of Bihar, Patna
3. The Regional Deputy Director, Education, Magadh Division, Gaya
4. The District Education Officer, Gaya
5. The District Programme Officer Establishment, Gaya, In The District Of Gaya

.... Respondent/s

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Appearance :


For the Petitioner/s : Mr. Sunil Kumar
For the Respondent/s : Mr. Ajay SC XI

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGEMENT

11 28-11-2014 1. In the present writ application, the petitioners are aggrieved by letter No. 8585 dated 8.10.2012 issued by respondent No.5, the District Programme Officer, Establishment, Gaya by which all the Drawing and Disbursing Officers of the Middle School of the District have been directed to ensure that only such teachers holding high academic qualification appointed up to the year 2000 get scale




of trained teachers with effect from 1.10.2003, who completed such training prior to 1.10.2003, or who acquired such training after 1.10.2003 in first attempt. The letter further envisages that such teachers will be entitled for trained scale from the date they appeared in the examination and passed in second attempt.

2. The issue involved in the present writ application, in the background of the facts asserted, is no more *res integra* in view of an order of this Court reported in 2012(4) PLJR 586 (Rahul Kumar Vs. State of Bihar and others). This is not in dispute that all the petitioners, five in number were appointed as Assistant Teachers on compassionate ground in the year 2000. It is claimed that they were highly qualified at the time of their appointment but admittedly they did not have the teachers training qualification. The appointment letters required the petitioners to complete their teachers training within a period of three years. It is the further claim of the petitioners that they pursued the authorities for providing them teachers training but they were not sent for such training. It is the further case of the petitioners that some of the teachers appointed between 1990 to 1999 were sent for teachers training held in the year 2000-2001 whereas, the petitioners were sent for such training in the year 2006. The

examination was held on 31.7.2007 and the result declaring the petitioners in the teachers training examination was declared on 4.2.2008. The petitioners were declared successful.

3. The petitioners seek relief for grant of matric trained scale with effect from 1.10.2003, relying upon resolution dated 29.7.2011 and 10.2.2012 which have been brought on record as Annexure-4 and Annexure-5 to the writ application. In similar circumstance, this Court in case of Rahul Kumar Vs. State of Bihar discussing, the Division Bench decision of this Court in case of Chandrakant Vs. State of Bihar & ors. reported in 2010 (4) PLJR 733 as well as orders of this Court passed in CWJC No. 9461 of 2012 (Manoj Kumar & ors. Vs. State of Bihar & ors) and CWJC No. 9768 of 2012 (Sanjiv Kumar & ors. Vs. State of Bihar & ors) observed in paragraph 8 as follows:-

“8. In the present case the petitioners were appointed in 2001. They were required to complete the training in terms of the letter of appointment by 2004. No material has been demonstrated before the Court how they were vigilant and what steps they took for pursuing any grievance that they were being deprived of the opportunity to undergo training. It is only on 21.2.2007 that they made a representation to be sent on training. They were sent for training on 12.12.2007 and have completed the same during 2007-2009 Session. Unless and until the results are declared there can be no presumption that a candidate who may have undergone training will necessarily get success. In absence of any provision in the Rule for granting trained scale to



the candidates who may have undertaken training as distinct from the date of passing, it is not possible to give any mandamus in respect of the same. Reliance by the petitioners on the orders dated 29.7.2011 and 10.2.2012 appears misconceived. They are administrative orders. They have to remain subservient to Rule 11. Additionally they have been issued in the background of the facts in Chandra Kant (supra). An administrative order cannot be interpreted and read in a manner to include into it something more which is not to be found in the judicial order from which it emanated. It has already been discussed that the facts in Chandra Kant (supra) are factually different from the present case. In para 26 of Chandra Kant (supra) it has been noticed that it was causing hardship and therefore there was a need to take a decision as a one time measure. The Court is satisfied the aforesaid observation is sufficient to hold that the petitioners cannot rely upon it as a precedent also.”

4. This Court in case of Rahul Kumar Vs. State of Bihar (supra) held the petitioners to be entitled to trained scale from the date they acquired training qualification after publication of results.

5. Following the said judgment of this Court in case of Rahul Kumar Vs. State of Bihar (supra), I am of the opinion that the petitioners, in the facts and circumstances of the case cannot claim matric trained scale with effect from 1.10.2003 on the strength of the resolution of the State Government dated 29.7.2011 (Annexure-4) and letter dated 10.2.2012 (Annexure-5). I do not

find any reason to grant the petitioners any relief different from what has been granted by this Court in case of Rahul Kumar Vs. State of Bihar and others (supra).

6. This application is accordingly, dismissed with an observation that the petitioners shall be entitled for trained scale from the date they acquired training qualification after publication of the results.

7. This application is accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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