

Pradeep Kumar Bhagat Vs. Human Resources Department

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Court : Jharkhand

Decided On : Feb-01-2016

Appellant : Pradeep Kumar Bhagat

Respondent : Human Resources Department

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W. P. (S) No. 1405 of 2015

-- 1. Pradeep Kumar Bhagat Petitioner vs.- 1. The State of Jharkhand.

2. The Secretary, Finance Department, Government of Jharkhand, Ranchi.

3. The Director, Primary Education, Human Resource Development Department, Jharkhand, Ranchi.

4. The Regional Deputy Director of Education (in short R.D.D.E) South Chhotanagpur Division of Education, Ranchi.

5. The Deputy Commissioner, Ranchi.

6. The District Superintendent of Education (in short D.S.E.), Ranchi.

7. The District Accounts Officer, Ranchi.

8. The Area Officer of Education, Angadha, Distt. Ranchi 9. The Block Education Extension Officer, Angadha, Ranchi.

10. The Head Master, Rajkiykrit, Middle School, Jaradih, Ranchi 11. Sri Santosh Kumar Mahton, Science Teacher, Rajkiykrit Middle School, Burudih/Tamadh, Ranchi. Respondents. with W. P. (S) No. 1407 of 2015 -- Shyam Kumar Petitioner vs.- 1. The State of Jharkhand 2. The Secretary, Finance Department, Government of Jharkhand, Ranchi 3. The Director, Primary Education, Human Resource Development Department, Jharkhand, Ranchi.

4. The Regional Deputy Director of Education (in short R.D.D.E) South Chhotanagpur Division, Ranchi.

5. The Deputy Commissioner, Ranchi.

6. The District Superintendent of Education (in short D.S.E.), Ranchi.

7. The District Accounts Officer, Ranchi.

8. The Area Education Officer of Education, Mander, Distt. Ranchi 9. The Block Education Extension Officer, Budhmu Block , Ranchi 10. The Headmaster, Rajkiykrit, Middle School, Chakme, Ranchi 11. Sri Santosh Kumar Mahtow, Science Teacher, Takenover Middle School, Burudih/Tamadh, Ranchi. Respondents. ----- CORAM: HONBLE MR. JUSTICE APARESH KUMAR SINGH ----- For the Petitioner : Mr. Lalit Kumar Singh, Adv. For the Respondents : Mr. Dhananjay Kumar Dubey, Sr. S.C.I Ruchi Rampuria, J.

C. to Sr. S. C. I ----- 2. 2/1.2.2016 Heard learned counsel for the parties. Both these petitioners earlier approached this Court in W. P. (S) No. 2758 of 2013 with a claim for grant of Grade-1 Scale from the date of their respective joining as Assistant Teacher in Primary School and all consequential benefits for promotion from Grade-1 to Grade-IV/V etc. It was the case of the petitioners that they acquired Teachers Training during the course of their services and delay caused was not on account of their fault. They claim the benefit of the ratio rendered in similar cases such as in the case of Arun Sinha & Ors.-Vs.- State of Jharkhand & Ors in W. P. (S) No. 638 of 2006, which was upheld by learned Division Bench of this Court in L.P.A. No. 214 of 2008 and also by Apex court in Special Leave to Appeal nos. 5520-5522 of 2013. These petitioners got the benefit of promotion to

Grade-I from the initial date of their joining thereafter vide Annexure-4 and Grade-II on completion of 12 years thereafter from the respective dates in 1994 and 2006 vide office order dated 6th February, 2014 bearing memo no. 528 issued by the Respondent-District Superintendent of Education, Ranchi. Petitioners came before this Court seeking the consequential monetary benefits thereof and consideration for promotion to the higher grades upto Grade-VII as Trained Graduate Science Teacher. During the pendency of the writ petitions, both have been granted the benefits of promotion to Grade-V scale vide orders dated 30th January, 2016 and 21st January, 2016 respectively with effect from 1st April, 2015 counting 12 years of service in the Graduate Trained Scale. Counsel for the petitioners have sought direction upon the respondents for consideration of the claim for promotion to Grade-VI/VII Scales in terms of Bihar Taken over Elementary 3. School Teachers Promotion Rules, 1993. The 1993 Rules specifically Rule 5 provides for the minimum time period and eligibility qualifications required to be satisfied for promotion to higher grades. Rule 7 provides for preparation of seniority list of teachers in the respective grades. Rule 5 is quoted hereunder, as it is material for consideration of the present case for promotion to higher grades VI and VII claimed by the petitioners.

Rule 5 : U;wure 'kSf{kd ,oa iz'kSf{kd vgZrk ,oa dkykof/k & 1 xzsM3esa izksUufr ds fy, & Lukrd izf'kf{kr rFkk xzsM& 2 esa U;wure 12 o"kZ dh Isok] vFkok eSfVd izf'kf{kr rFkk xzsM& 2 esa U;wure 18 o"kZ dh Isok] 2 xzsM& 4 esa izksUufr ds fy,& Lukrd izf'kf{kr rFkk xzsM2,oa xzsM3esa f'k{kd miyC/k ugha ds pyrs xzsM&1 ls xzsM&4 esa izksUufr dh n'kk esa xzsM&1 esa U;wure 8 o"kZ dh Isok 3 xzsM&6 esa izksUufr ds fy,& LukrdksRrj izf'kf{kr rFkk xzsM&5 esa U;wure 12 o"kZ dh Isok] vFkok Lukrd izf'kf{kr rFkk xzsM&5 esa U;wure 18 o"kZ dh Isok] 4 xzsM&7 esa izksUufr ds fy,& LukrdksRrj izf'kf{kr] xzsM&6 vFkok xzsM&5 esa i;kZIr f'k{kd miyC/k ugha gksus dh fLFkfr esa xzsM&4 ls xzsM&7 ess izksUufr dh n'kk esa xzsM&4 esa U;wure 5 o"kZ dh Isok ijUrq ;g dh vuqLwfr tkfr@tu&tkfr ds LukrdksRrj izf'kf{kr f'k{kd ds ugha feyus ij mDr oxksZ ds Lukrd izf'kf{kr f'k{kd dks xzsM&7 esa 31 ekpZ] 1995 dh vof/k rd izksUufr nh tk ldsxh

This Court need not comment on the fulfillment of eligibility criteria by the petitioners herein as required under the Rules in question, as it is an exercise to be undertaken by the concerned respondent authorities of the State. It however appears on a prima facie reading of the aforesaid Rule that there are Kalaawdhi or timeline prescribed

to be completed in each grade for the next higher promotion. It further appears that availability of vacancy and consideration of inter-se seniority are also relevant issues to be taken into account while considering the cases of eligible persons for such promotion to higher grade like Grade-VI and VII. Petitioners admittedly have got promotion in Grade-V with effect from 1st April, 2015. In such circumstances, whether the petitioners are entitled for any higher grades of promotion is something which is required to be examined by the respondent 4. authorities in accordance with law and after due scrutiny of the relevant records of the petitioners taking into account the Rules applicable. Therefore, at this stage, writ petitions are disposed of with the observations that if the petitioners make a claim for such promotion it may be considered in accordance with law within a reasonable time. Accordingly, the writ petitions are disposed of. Pending I.As are also disposed of. (Aparesh Kumar Singh,J) jk

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