

(2013) 08 JH CK 0013

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4401 of 2013 and I.A. No. 5353 of 2013

Ahsanul Haque and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 01-08-2013

Acts Referred:

Constitution of India, 1950 — Article 309

Citation : (2013) 08 JH CK 0013

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Om Prakash Tiwari, for the Appellant;

Final Decision : Disposed Off

Judgement

Narendra Nath Tiwari, J.—In I.A. no. 5353 of 2013, the petitioners have prayed for disposal of W.P.(S) NO. 4401 of 2013 in terms of the order passed by this Court in W.P.(S) no. 2194 of 2013 {Ravindra Kumar Ojha & Ors. Vrs. State of Jharkhand & Ors.}. Learned counsel, appearing on behalf of the petitioner, submitted that the case is exactly identical with the case, which has been decided in the aforesaid writ petition and the instant writ petition can be disposed of in terms of the order passed by this Court in the aforesaid cases.

2. Learned J.C. to S.C. III, appearing on behalf of the respondents, has also accepted the said position and submitted that the writ petition itself can be disposed of in terms of the order passed by this Court in the aforesaid case.

3. In the writ petition, the petitioners have prayed for a direction on the respondents to grant Grade-I scale to them from the dates of their respective joining and all consequential benefits and also to give promotion from Grade-I to Grade-IV, V etc.

4. The petitioners were appointed as untrained teachers by the Human Resources Development Department, Government of Bihar in accordance with its policy decision and resolution dated 5.3.1991. The Government of Bihar had framed the

Rules known as the Bihar Primary School Teachers' Rule, 1991 in exercise of its power under Article 309 of the Constitution of India. In the said rule, there was a provision for appointing the untrained teachers and after appointment, for sending such teachers for in-service Teachers' Training in the Government Colleges.

5. The petitioners were untrained Graduate and were appointed in the year 1994 on the basis of the panel prepared after completion of all the legal formalities. The Director, Primary Education, Government of Bihar by Letter No. 998/95 dated 7.6.1995 had taken decision to grant Grade-I scale of the Matric Trained to the untrained teachers, who were Graduate. However, after appointment of teachers, they were not sent for training. The appointment procedure was challenged before the Patna High Court. The matter went up to the Hon'ble Supreme Court in SLP (Civil) No. 23187/1996 (Ram Vinay Kumar & Ors. Vs. State of Bihar & Ors.) In the said SLP the Supreme Court gave certain direction to the State of Bihar for sending the petitioners for in-service training. The Finance Department, Government of Jharkhand by letter No. 4568 dated 5.7.2002 granted Grade-I Matric Trained scale to such untrained teachers w.e.f. 1.1.1996. It was also decided that the seniority position of the petitioners shall be maintained as per the merit list prepared at the time of their appointment. However, the petitioners have been stagnated in the same scale for more than 18 years without any upgradation in the scale. Although the persons appointed with the petitioners have been promoted from Grade-I scale to Grade-IV scale, the petitioners have not been given even Grade-II scale. The petitioners then filed representation through their Association, which was rejected by the Government of Jharkhand observing that the untrained teachers would not be entitled for promotion from Grade-I scale to higher scale and that they would be entitled to Grade-I scale only from the date of acquiring Teachers' Training certificate. The petitioners are aggrieved by the said order.

6. Against the said order, one Awadh Bihari Mishra & Ors. Vrs. State of Jharkhand & Ors. had filed writ petition being W.P.(S) no. 5465 of 2007. The said writ petition was allowed and the appeal being L.P.A. no. 214 of 2008 against the said order was dismissed. The SLA being SLA(Civil) no. 5520-5522 of 2013 was also dismissed by Hon'ble Supreme Court.

7. The said legal position has not been disputed by learned counsel for the respondents.

8. I have heard learned counsel for the parties and perused the decisions and directions given by this Court in the said cases. The instant case is squarely covered by the said decisions of this Court. In similar circumstances and on the similar facts, the case of Ravindra Kumar Ojha & Ors. Vrs. State of Jharkhand & Ors. was also decided in W.P.(S) no. 2194 of 2013. In view of the above, this writ petition as well as I.A. no. 5353 of 2013 are disposed of in the light of the said decision in Awadh Bihari Mishra & Ors.(supra) and in Ravindra Kumar Ojha & Ors. (supra) holding that the petitioners are entitled to get Grade-I from the

respective date of their joining and not from the date of completion of the Teachers" Training and are entitled to get all consequential benefits accordingly.