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**(2010) 01 JH CK 0012**  
**In the Jharkhand High Court**

Marianus Thomas Lakra

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

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**Date of Decision :** 04-01-2010

**Acts Referred:**

**Citation :** (2010) 4 JLJR 289

**Hon'ble Judges :** Dabbiru Ganeshrao Patnaik, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

D.G.R. Patnaik, J.—Heard counsel for the parties.

2. The petitioner in this writ application has prayed for a direction upon the respondents to pay the B.A. Trained scale to the petitioner in the scale of Rs. 5500 - 9000/- which has already been allowed to the petitioner vide office order dated 12.12.2001 and also to pay him difference of salary on the graduate trained scale with effect from 01.04.1999.

3. As it appears from the pleadings of the petitioner in this writ application, the petitioner was appointed in service as a Matric Trained Assistant Teacher in the year 1987 and was posted in the Government Middle School, Masmano in the district of Lohardaga.

Subsequently by office Memo dated 12.12.2001 he was granted Graduate trained scale of Rs. 5500 - 9000/- with effect from 01.04.1999 and was posted in the Government Middle School, Jingi in the district of Lohardaga, where he joined on 07.01.2002 and his pay was also fixed in the scale of Rs. 5500 - 9000/

4. The grievance of the petitioner however is that despite such sanction, he has not been allowed to draw the scale of Rs. 5500 - 9000/- and thereby, he has been deprived of the benefits of difference of salary on the above scale ever since 01.04.1999.

5. In the counter affidavit filed on behalf of the respondents it is stated that the

order of promotion granted to the petitioner earlier and upon which the petitioner has based his claim, was illegally passed by the then In-charge District Superintendent of Education without following the legal procedure and without obtaining the approval of the District Education Establishment Committee.

6. Learned Counsel for the respondents would explain that under Rule 3 and Rule 9 (1 and 2) of the Promotion Rules, 1993, promotion to the Graduate Trained Scale could be given to a teacher only if he completes a minimum period of 18 years in Grade-I and only upon recommendation made by the District Education Establishment Committee. In the petitioner's case, on 01.04.1999 that is the date on which the petitioner had obtained his graduation certificate, he had not completed the required period of teaching experience for enabling his promotion and neither was any recommendation obtained from the District Education Establishment Committee and as such, the promotion granted to the petitioner being illegal, the petitioner is not entitled to the scale which he has demanded.

7. Learned Counsel for the petitioner would argue on the other hand that the Rules referred to by the respondents under which they claim that the petitioner ought to have completed 18 years of continuous service in Grade-I, is not applicable to the petitioner. Learned Counsel however does not dispute that for grant of promotion, recommendation of the District Education Establishment Committee was required to be taken as per the Rules and in the petitioner's case, this has admittedly not been done.

8. From the rival submissions and even as admitted by the Learned Counsel for the petitioner, it appears that the promotion which was granted to the petitioner was not in consonance with the Rules. The concerned authorities of the respondents have rightly assessed the petitioner's claim and taken a decision as recorded in the impugned order (Annexure-6) to reject his claim.

9. Considering the above facts and circumstances, I do not find any merit in this writ application. Accordingly, the same is dismissed.