

## **Dhrub Kumar Sinha and Others Vs The State of Jharkhand and Others**

**Court:** Jharkhand High Court

**Date of Decision:** July 2, 2013

**Acts Referred:** Constitution of India, 1950 " Article 309

**Hon'ble Judges:** Narendra Nath Tiwari, J

**Bench:** Single Bench

**Advocate:** Rahul Kumar, for the Appellant; R. Mukhopadhyay, for the Respondent

### **Judgement**

Narendra Nath Tiwari, J.

In I.A. No. 4157 of 2013, the petitioners have prayed for disposal of W.P.(S) No. 2832 of 2013 in terms of

the order passed by this Court in W.P.(S) No. 5465 of 2007 (Awadh Bihari Mishra & Ors. Vs. State of Jharkhand & Ors.). Learned counsel,

appearing on behalf of the State, submitted that the writ petition itself can be disposed of in terms of the order passed by this Court in the aforesaid

case.

2. 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 i.e. the promotion from Grade-I to Grade-IV, V etc.

3. 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 also 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 wherein there was a provision for appointing the

untrained teachers and after appointment, for sending the said teachers for in-service Teachers" Training in the Government Colleges.

4. The petitioners were untrained Graduate and were appointed in the year 1994 on the basis of the merit list prepared after completing all the legal

formalities. The Director, Primary Education, Government of Bihar by Letter No. 998/95 dated 7.6.95 took a decision to grant Grade-I scale of

the Matric Trained to the untrained teachers who were Graduate. However, after the 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 S.L.P., 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 5.7.02

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 12 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. They made representation through their Association which was

rejected by the Government of Jharkhand indicating 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.

5. Today when the case is taken up, it has been submitted by learned counsel for the petitioners that similar writ petitions have been disposed of by

this Court holding that the petitioners' seniority is to be counted from the date of their appointment and that the petitioners are entitled for

consideration of fixing their seniority from the date of their appointment and also for consideration of giving the benefit of Grade-IV scale after

completion of 8/12 years of their service. Such directions have already been given by this Court in W.P.(S) No. 4235/2004 (Balwant Sahay Vs.

The State of Jharkhand & Ors.) and W.P.(S) No. 638/2006 (Arun Sinha Vs. The State of Jharkhand & Ors.) and upheld by the Division Bench

of this Court in L.P.A. No. 214 of 2008 and also by the Supreme Court in S.L.A. No. 5520-5522 of 2013.

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

7. I have perused the decisions/directions given by this Court in the said cases. This case is squarely covered by the said decisions of this Court.

This writ petition as well as I.A. No. 4157 of 2013 are disposed of holding that the petitioners are entitled to get Grade-I from the date of their

joining i.e. on 31.10.1994, 25.10.1994, 29.10.1994, 28.10.1994, 26.10.1994, 25.10.1994, 25.10.1994, 28.10.1994 respectively and not from

the date of completion of the Teachers' Training and are entitled to get all consequential benefits accordingly.