

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (S) No. 2793 of 2017

Nav Kumar Mishra, Son of late Surendra Nath mishra, Resident of Vill &
Post- Mahesra, P.S- Hazaribagh, Dist-Hazaribagh.

... Petitioner

Versus

1. State of Jharkhand, represented through Secretary, School Education & Literacy Department, Govt. of Jharkhand, at Telephone Bhawan, P.O.: Dhurwa, P.S.: Jagarnathpur, Dhurwa, District: Ranchi.
2. The Secretary, School Education & Literacy Department, Govt. of Jharkhand, at Telephone Bhawan, P.O.: Dhurwa, P.S.: Jagarnathpur, District: Ranchi.
3. The Director, Secondary Education, School Education & Literacy Department, Govt. of Jharkhand, at Telephone Bhawan, P.O.: Dhurwa, P.S.: Jagarnathpur, District: Ranchi.
4. The Regional Deputy Director of Education, North Chhotanagpur Region, Hazaribag, P.O.+ P.S.+ District: Hazaribag.
5. The District Superintendent of Education, Hazaribag, P.O. + P.S. + District: Hazaribag.
6. The Headmaster, Maheshra High School, Hazaribag, P.O. + P.S. + District: Hazaribag.

... Respondents

CORAM : HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

For the Petitioner	: Mr. Rajeev Ranjan Tiwary, Advocate
	: Mr. Ashutosh Prasad, Advocate
For the State	: Mr. J.F. Toppo, Advocate
	: Mr. Ajit Kumar, Advocate

10/Dated: 22nd April, 2026

1. The instant writ petition has been filed under Article 226 of the

Constitution of India praying therein for the following reliefs:

- (i) *For That by way of this writ petition the petitioner prays for issuance of an appropriate writ (s) /order(s) / direction(s) or a writ in the nature of Certiorari for quashing the office order issued (Annemure) vide memo no. 167 dated 05.03.2014 issued by R.D.D.E North Chotanagpur division Hazaribagh whereby and where under without properly considering the facts material and evidences on record the claim of the petitioner for grant of graduate trained scale had erroneously rejected on extraneous ground which is wholly arbitrary unjust and unsustainable in the eye of law.*
- (ii) *That the petitioner further prays for issuance appropriate writ (s) /of an direction(s) or writ a in the order(s) /nature of mandamus commanding upon & directing the respondents to grant graduate trained scale and benefit of promotion or alternatively benefit of A.C.P. / M.A.C.P. as per Govt. rules & regulations & circulars for which though the petitioner is entitled; however, the same is not granted to the petitioner despite the fact that the petitioner has completed almost 34 years of his services, in the facts of this case, for doing conscionable justice to the petitioner*
- (iii) *A writ in the nature of Certiorari for quashing the Office order being memo No. 167 dated 05.03.2014 (Annexure – 6), issued by R.D.D.E., North Chhotanagpur Division, Hazaribag*
- (iv) *For any other relief/reliefs, for which the petitioner is legally entitled, in the facts & circumstances of this case.*

Factual Matrix:

2. The brief facts, as per the pleadings made in the writ petition is

required to referred herein which reads as under:

- (i) It is a case where the petitioner was initially appointed on the post of Assistant Teacher in Maheshra High School, district Hazaribag on 25.01.1973 and his appointment was approved on 24.07.1973 and the petitioner has passed his B.Sc. examination in the year 1976.
- (ii) The Director Secondary Education however rejected the approval of the petitioner, and being aggrieved with the same, the petitioner has moved before this Court by filing C.W.J.C. No. 1431/1981 and on hearing the petitioner this Court has directed the respondents to take fresh decision on the approval of the petitioner, however, the same was also rejected, and being aggrieved by the same, the petitioner has filed another writ petition bearing C.W.J.C. No. 5612/1987 and after hearing the counsel for the petitioner, this Court vide order dated 10th February, 1998 has set aside the order of the respondent and further directed the respondents to take fresh decision within a period of 2 months.
- (iii) Further, in compliance of the order passed by this Court the Director, Secondary Education has disposed of the representation of the petitioner, giving approval of the appointment of the petitioner from the date of taking over the school by the State vide its order dated 27th July, 1998, further holding that the petitioner is not entitled for salary and emoluments however, his service will be counted for pension and other purpose from the date of acquisition of the school by the State.

- (iv) The consequential monetary benefits has been denied by the Director, Secondary Education, the petitioner has moved before this Court for appropriate direction, by filing W.P.S. No. 6402/2002 for directing the respondents to grant consequential monetary benefits and after hearing the counsel for the petitioner this Court, vide order dated 26.06.2008, has allowed the writ petition directing the respondents to pay consequential monetary benefits within three months.
- (v) Further, petitioner had undergone Diploma in Education Teachers Training Course in the year 1988 and a certificate to that effect has also been issued by R.G. Polytechnic, the institute from which the petitioner had undergone Teachers Training Course.
- (vi) On the basis of said Teacher Training course, the petitioner was granted trained scale, however, on the basis of one complaint filed by one Anant Kumar Mishra, the respondents have withdrawn the trained scale, and on being aggrieved, the petitioner has moved before this Court by filing W.P.S. No. 5344 of 2008 which was heard by this Court and vide its order dated 11.12.2008, this Court has directed the respondents to consider the case of the petitioner and pass appropriate order.
- (vii) Thereafter, the case of the petitioner has been considered, and vide order dated 5.3.2014, the R.D.D.E., North Chhotanagpuur, Hazaribag has rejected the claim of the petitioner for grant of trained scale, holding that the said institute appears to be *Farji* without any

cogent proof.

- (viii) In the meantime, the petitioner has retired from his service on 28.02.2013 after rendering a service of 33 years 10 months and 22 days.
- (ix) As the R.D.D.E. has rejected the claim of the petitioner for grant of trained scale the petitioner has rendered the entire service as an untrained teacher and was getting salary of untrained teacher and his retiral benefits and other emoluments is also calculated on the same scale.
- (x) Further, the Govt. has also framed scheme for giving training to the appointed untrained teacher, however, the petitioner was not provided with opportunity any for undergoing the said training and further the training undergone by the petitioner the said institute was held *Farji* by the respondents.
- (xi) The Government has formulated the rule wherein it has been provided that teachers working in the school will get promotion after completion of 10 years of service and will also get promotion in Selection Grade after completion of 12 years in Senior Scale.
- (xii) The petitioner has completed almost 34 years of service, the petitioner is entitled for promotion as per the Government Circulars and Policy Decision after completion of 12 years and 24 years of service and even the clerical staffs are being given the benefits of ACP & MACP however, neither the promotion is given to the petitioner nor any ACP / MACP is given to the petitioner, which

is wholly uncalled for and wholly unjustified.

(xiii) The petitioner has filed several representations for grant of promotion or the benefit of ACP / MACP, however, no decision is taken by the respondents for granting promotion.

Being aggrieved from the same, the writ petitioner has filed the instant writ petition.

Submissions advanced by the learned counsel appearing for the petitioner:

3. Learned counsel for the petitioner has submitted that the action of the respondents in rejection the claim of the petitioner for grant of graduate trained scale, only on the ground that the institute from which the petitioner has obtained the Diploma in education degree is not on website, is wholly arbitrary unjust and unsustainable in the eye of law.
4. Further submission has been made that the respondents are duty bound to grant either the benefit of regular promotion or the benefit of ACP/MACP as the petitioner has completed almost 34 years of service and denial of the same by the respondents is wholly unjust.
5. Learned counsel for the petitioner has further submitted that as the department has initially granted scale of trained teacher to the petitioner, however, denied the benefit of promotion to the petitioner, on the ground that the petitioner is not a trained teacher is also in violation of article 14 & 21 of the Constitution of India, therefore, the Officer order being Memo No. 167 dated 05.03.2014 (Annexure – 6),

issued by the R.D.D.E., North Chhotanagpur Division, Hazaribag, may be quashed.

Submissions advanced by the learned counsel appearing for the Respondent:

6. Per Contra, learned counsel for the respondent has submitted that submitted that in the earlier date of hearing i.e. on 20.2.2020, this Court has directed the respondents/state to file specific affidavit bringing on record the enquiry report against the petitioner regarding forged certificate issued by R.G. Polytechnic, New Delhi.
7. Further, the learned counsel has submitted that the enquiry report concerning Certificate issued from R.G Polytechnic Kirti Nagar, Delhi has been submitted by D.S.E, Dumka, mentioned due to mistake, actually the aforesaid report has been submitted by the Regional Deputy Director of Education, Santhal Pargana Division, Dumka vide letter no 254 dated 28.03.2008. The said letter has been communicated to District Superintendent of Education, Dumka wherein it is mentioned that the institute that had issued the training certificate, namely, R.G Polytechnic, Kirti Nagar, New Delhi has been found forged during the enquiry.
8. On the basis of the aforesaid enquiry report, the grievances of the petitioner has been rejected vide Memo No. 167 dated 05.03.2014.
9. As such, the instant writ application is devoid of any merit and is liable to be dismissed.

Analysis:

10. The case of the writ petitioner is that he has been appointed on untrained graduate scale on the basis of Science Graduate but for the purpose of getting the upgradation in the pay-scale and other future avenues, he has got Diploma in Education from R.P. Polytechnic, New Delhi.
11. Thereafter, he has approached the authority for upgradation of the pay-scale in the graduate trained scale, the grievance has not been redressed, as such, the petitioner approached this Court.
12. The issue which requires consideration is as to whether the claim of upgradation in pay-scale from untrained scale to that of graduate trained basis based upon a certificate which has been found to be not genuine, any right will be said to be accrued in favour of the writ petitioner.
13. Admittedly herein the petitioner was appointed on untrained graduate scale on the basis of the educational qualification of Graduate in Science, while in service, he in order to get the higher pay-scale attached to that of graduate trained scale, has got a certificate of Diploma in Education from R.K. Polytechnic Institute New Delhi.
14. The State authority in pursuance to the order passed by this Court in W.P. (S) No. 5344 of 2008 dated 11.12.2008 has conducted an enquiry which is at Annexure-A of the counter affidavit.
15. The petitioner has not furnished the details of the registration number, the details about the recognition of the NCET and the leaving

certificate.

16. The authorities have tried to communicate from the said institution to get the fact about its genuineness and when no details have been found available, then based upon the inspection of the team, as available in Annexure –A which is appended to the counter affidavit, as has been referred hereinabove, has decided not to grant the graduate trained scale in favour of the petitioner.
17. The propriety of the said decision is the consideration to be made in the writ petition.
18. The pay-scale to the higher post have based upon the particular educational qualification, herein, the certificate of Diploma is the mandatory condition to get the benefit of graduate trained scale and as such it is the bounded duty of the petitioner to come out with the genuine certificate for the purpose of grant of higher pay-scale.
19. However, the petitioner has produced the certificate, but the said certificate has not been found genuine as per Annexure-A appended to the counter affidavit.
20. This Court, therefore, is of the view that based upon which the pay-scale of graduate teacher is to be given, the certificate itself is found to be not obtained from a genuine institute and as such, whenever the decision has been taken by the Regional Deputy Director of Education, in pursuance of the order passed, cannot be said to be suffer from an error.
21. The writ petition has been filed of issuance of writ of certiorari and it

is well-settled that direction can be issued in the writ of certiorari if there is any error or suffers from perversity. Reference may be made to the judgment passed by the Hon'ble Apex Court in the case of ***West Bengal Central School Service Commission & Others Vs. Abdul Halim & Others*** reported in ***(2019) 18 SCC 39*** their Lordships have been laid down pleased to hold at paragraph no. 30 that the power of the judicial review must be exercised by the Court after determining that the impugned is vitiated by an error apparent on the face of the record and not the same has been established by a process of reasoning, Para-30 of the aforesaid judgment reads as under:-

*"30. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is self-evident on the fact of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the fact of the record, as held by this Court in *Satyanarayan Vs. Mallikarjuna* reported in AIR 1960 SC 137. If the provision of a statutory rule is reasonably capable of two or more constructions and one construction has been adopted, the decision would not be open to interference by the writ Court. It is only an obvious misinterpretation of a relevant statutory provision, or ignorance or disregard thereof, or a decision founded on reasons which are clearly wrong in law, which can be corrected by the writ Court by issuance of writ of Certiorari."*

22. Further, in the case of ***T.C. Basappa Vs. T. Nagappa*** reported in ***(1955) 1 SCR 250***, their Lordship hold that the patent error in a

decision can be corrected by writ of certiorari, when it is manifested by the error apparent on the face of the proceedings. The relevant portion of the aforesaid judgment is quoted hereunder: –

“10. An error in the decision or determination itself may also be amenable to a writ of certiorari but it must be a manifest error apparent on the face of the proceedings, e.g. when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by certiorari but not a mere wrong decision. ...”

23. This Court, applying the aforesaid judgment referred hereinabove with the facts of the present case, is of the view that it is a case where the writ of certiorari cannot be issued.

24. Accordingly, the instant writ petition being W.P. (S) No. 2793 of 2017 is hereby fails and dismissed.

(Sujit Narayan Prasad, J.)

22nd April, 2026

Samarth/**A.F.R.**

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