



# IN THE HIGH COURT OF JUDICATURE AT PATNA

(CIVIL WRIT JURISDICTION)

C.W.J.C No. OF 2014

Sami Ahmad ..... Petitioner.

## VERSUS

The State of Bihar & others ..... Respondents.

## LIST OF DATES & EVENTS

Issue before this Hon'ble Court	For issuance of appropriate writ order or direction or writ in the nature of certiorari quashing the Memo No.1199 Dated 24.05.13 passed by District Programme officer (Establishment) Madhepura (Respondent No.4) by which the claim of petitioner's appertains to promotion in the scale of Headmaster was rejected
Features	The petitioner (23.09.76) who was appointed earlier then Prem Shankar Mishra (06.11.1980) & Nawlesh Kumar Singh (20.03.1978) besides the petitioner & Sri Nawlesh Kumar Singh was allowed Metric & B.A trained Scale from 28.07.1985 but Sri Nawlesh Kumar Singh was allowed Headmaster Scale from 24.08.1990 but the same was refused to the petitioner. The petitioner preferred a writ application before this Hon'ble Court by filling CWJC No.1925 of 2003 which was disposed of on 26.07.2010 with specific & clear direction BUT <b>HERE AGAIN the respondent in order to justify their decision granting promotion to Sri Nawlesh Kumar Singh illegally mentioned the date of appointment as 26.11.1970 in place of 20.03.1978 whereas in order to show the petitioner junior from Sri Nawlesh Kumar Singh date of appointment of the petitioner was illegally mentioned wrong which was corrected by pen in the column of date of appointment of petitioner but wrong date of</b>

	<i>appointment of Sri Nawlesh Kumar Singh was not changed which is proved from the impugned order itself</i>						
Date of appointment	The petitioner is senior from Prem Shankar Mishra & Sri Nawlesh Kumar Singh <table border="1" data-bbox="662 411 1438 527"> <tr> <td>Sami Ahmad</td> <td>23.09.76</td> </tr> <tr> <td>Prem Shankar Mishra</td> <td>01.03.81</td> </tr> <tr> <td>Nawlesh Kumar Singh</td> <td>20.03.1978</td> </tr> </table>	Sami Ahmad	23.09.76	Prem Shankar Mishra	01.03.81	Nawlesh Kumar Singh	20.03.1978
Sami Ahmad	23.09.76						
Prem Shankar Mishra	01.03.81						
Nawlesh Kumar Singh	20.03.1978						
27.08.1983	The petitioner Sri Nawlesh Kumar Singh & others teacher was sent for one years teachers training from a sessions commenced from 01.09.1983 in Primary Teachers Education College Tikapatti under District Purnea						
09.09.1992	The petitioner Md. Sami Ahmad & another Sri Bijay Kumar Bikal was granted permission to appear in M.Sc Examination for session 1889-91 with the condition detailed in the letter in which the petitioner appeared & was declared passed						
26.07.10	The petitioner preferred a writ application before this Hon'ble Court by filling CWJC No.1925 of 2003 which was disposed of on 26.07.2010 with specific & clear direction on the basis of ratio laid down in the case of Ram Nath Prasad Singh & Ors. Vs. The State of Bihar & Ors Reported in 2009 (3) PLJR 384						
24.01.11, 31.01.11 18.02.11 & 25.09.12	The petitioner filed several representation after order dated 26.07.10 besides filling Contempt case before this Hon'ble Court						
24.05.13	The action of the respondent defeating the claim of the petitioner by letter No.4 dated 04.01.2010 is wholly unjustified since by Memo No. 885-2 dated 09.09.1992 (Annexure-2) the petitioner was granted permission to appear in M.Sc. Examination with the condition that he will not be allowed any other leave except the casual & the earned leave & with further condition that there shall not be any hindrance in the teaching, as such the subsequent letter No.4 dated 04.01.2010 can not be applied in the case of the petitioner since the petitioner passed M.Sc Examination prior to the issuance of letter No.4 dated 04.01.2010 . <b>MOREOVER <i>vides impugned order the respondent in order to justify their decision granting promotion to the junior illegally mentioned the date of appointment as 26.11.1970 in place of 20.03.1978 whereas in order to show the petitioner junior from Sri Nawlesh Kumar Singh date of appointment of the petitioner was illegally mentioned wrong which was corrected by pen in the column of date of appointment which is proved from the Annexure-1 itself.</i></b>						
	Hence present writ application.						

# IN THE HIGH COURT OF JUDICATURE AT PATNA

(CIVIL WRIT JURISDICTION)

C.W.J.C NO. OF 2014

In the matter of an application under  
Article 226 of the constitution of  
India

AND

In the matter of

**Sami Ahmad** S/O Late Md. Sabud Ali R/O Village Khokshi P.O- Khokhshi Sharanpur,  
Via- Udakishanganj P.S- Gwalpara District – Madhepura. ....Petitioner.

## VERSUS

1. The State of Bihar through Principal Secretary Human resources Development  
Department Bihar Patna.
2. District Magistrate Madhepura.
3. District Education Officer Madhepura.
4. District Programme officer (Establishment) Madhepura.

..... Respondents.

To,

The Hon'ble Ms. Justice Rekha M Doshit the chief Justice of High Court of judicature at Patna and her companion justices of the said Hon'ble court.

Humble application on behalf of  
petitioner above-named.

**Most respectfully sheweth:**

1. That this writ application is being filed with prayer of issuance of appropriate writ order or direction commanding the respondent for following main relief:
  - (i) That for issuance of appropriate writ order or direction or writ in the nature of certiorari quashing the Memo No.1199 Dated 24.05.13 passed by District Programme officer (Establishment) Madhepura (Respondent No.4) by which the claim of petitioner's appertains to promotion in the scale of Headmaster was rejected.
  - (ii) That for issuance of appropriate writ order or direction or writ in the nature of mandamus commanding the respondent that the petitioner **(23.09.76)** who was appointed earlier then Prem Shankar Mishra **(06.11.1980)** & Nawlesh Kumar Singh **(20.03.1978)** besides the petitioner & Sri Nawlesh Kumar Singh was allowed Metric & B.A trained Scale from **28.07.1985** but Sri Nawlesh Kumar Singh was allowed Headmaster Scale from **24.08.1990** but the same was refused to the petitioner on the basis of erroneous findings unsustainable & detrimental to the interest of the petitioner despite the fact that the petitioner was appointed earlier & have more teaching experience & Post Graduate Degree too.

- (iii) That for issuance of appropriate writ/order/director or writ in the nature of mandamus commanding the respondents to grant **benefit of Headmaster Scale from 24.08.1990 the date from which Sri Nawlesh Kumar Singh was allowed Headmaster Scale by the respondent.**
  - (iv) That responsible be punished for repeated discrimination making out against the petitioner & for knowingly extending the course of litigation.
  - (v) That for grant of any after relief or reliefs to which the petitioner be fund entitled in law be granted to them.
2. That issue of seminal importance of law involved in this writ application is as follows.
- (i) Whether the **respondent's action is justified by which they allowed the Headmaster Scale to the Junior to the petitioner who was appointed subsequent to the petitioner but allowed Metric & B.A Trained scale from 28.07.1985 but with utter discrimination Junior to the petitioner was allowed Headmaster Scale from 24.08.1990 but the petitioner was not given same benefit till today as such the same discrimination can be held justified.**
  - (ii) Whether the action of the respondent defeating the claim of the petitioner by letter No.4 dated 04.01.2010 is justified since by Memo No. 885-2 dated 09.09.1992 the petitioner was granted permission to appear in M.Sc. Examination with the condition that he will not be allowed any other leave except the casual & the earned leave allowed to them, & with further condition that there shall not be any hindrance in the teaching, as such whether the subsequent letter can be given any weightage in the

case of the petitioner since the petitioner passed M.Sc prior to the issuance of letter No.4 dated 04.01.2010 & further the same degree was acquired with the permission granted by the respondent itself with the condition stipulated in Memo No. 885-2 dated 09.09.1992, as such the respondent illegally taken shelter of letter No.4 dated 04.01.2010, in order to illegally defeat the claim of the petitioner.

- (iii) Whether the letter No.4 dated 04.01.2010 was applied reasonably in case of petitioner since the benefit which was given to the Junior to the petitioner namely Sri Nawlesh Kumar Singh was accrued on 24.08.1990 itself in favor of the petitioner & denial to the same was illegal discrimination particularly on the basis of unreasonable explanation.
- (iv) Whether the claim of the petitioner is being defeated on the basis of unreasonable explanation with the aid of letter No.4 dated 04.01.2010 but the same letter was not applied in case of Sri Nawlesh Kumar Singh & others teachers as such the explanation & unreasonable justification can be sustained in the eye of law since it is admitted fact that the petitioner was appointed on 23.09.76 & Sri Nawlesh Kumar Singh was appointed after more then Four years on 26.11.1970.
- (v) Whether the impugned order was passed in true compliance of order dated 26.07.10 passed in CWJC No.1925 of 2003 passed by this Hon'ble Court passed following the ratio laid down in the case of Ram Nath Prasad Singh & Ors. Vs. The State of Bihar & Ors. Reported in 2009 (3) PLJR 384 as such the impugned order shows that the same was passed in flagrant violation of order dated 26.07.10 passed in CWJC No.1925 of

2003 & the ratio laid down in the case of Ram Nath Prasad Singh & Ors. Vs. The State of Bihar & Ors. Reported in 2009 (3) PLJR 384.

- (vi) Whether action of respondent is arbitrary and malafide which is apparent from the face of record by which the respondent illegally defeated the claim of the petitioner with the aid of letter No.4 dated 04.01.2010 in order to grant a benefit which accrued on 24.08.1990 itself.
3. That the petitioner is resident of India and the petitioner was appointed on the post of School Teacher on 23.09.1976.
4. That vide Memo No.1541-112 dated 27.08.1983 issued under the signature of Regional Deputy Director Koshi Zone Saharsa by which the petitioner & others teacher including Sri Nawlesh Kumar Singh was sent for one years teachers training from a sessions commenced from 01.09.1983 in Primary Teachers Education College Tikapatti under District Purnea.

A true photo copy of Memo No.1541-112 dated 27.08.1983 is annexed herewith and marked as Annexure-1 to this application.

5. That Vide Memo No.885-2 dated 09.09.1992 issued under the signature of District Education Superintendent Madhepura the petitioner Md. Sami Ahmad & another Sri Bijay Kumar Bikal was granted permission to appear in M.Sc Examination for session 1889-91 with the condition detailed in the letter in which the petitioner appeared & was declared passed .

A true photo copy of Memo No.885-2 dated 09.09.1992 issued under the signature of District Education Superintendent



Madhepura is annexed herewith and marked as Annexure-2 to this application.

6. That admittedly the petitioner was appointed 23.09.76 & Sri Prem Shankar Mishra was appointed on 06.11.1980 & Sri Nawlesh Kumar Singh was appointed on 26.11.1970, & the petitioner & Sri Nawlesh Kumar Singh was sent for teachers training from a sessions commenced from 01.09.1983 in Primary Teachers Education College Tikapatti under District Purnea & both the teachers obtained teachers training. Thereafter both the teachers particularly the petitioner & Sri Nawlesh Kumar Singh was allowed B.A trained Scale from 28.07.1985 & thereafter with utter discrimination Sri Nawlesh Kumar Singh was allowed Headmaster Scale from 24.08.1990 but the same was refused to the petitioner till today as such the petitioner preferred a writ application before this Hon'ble Court by filling CWJC No.1925 of 2003 which was disposed of on 26.07.2010 with specific & clear direction on the basis of ratio laid down in the case of Ram Nath Prasad Singh & Ors. Vs. The State of Bihar & Ors Reported in 2009 (3) PLJR 384. It is made clear that the writ petition was filed in 2003 by bare perusal of Order dated 26.07.2010 passed in CWJC No.1925 of 2003 it is specifically proved that there was no mention as to how the junior to the petitioner or contemporary to the petitioner was allowed Headmaster Scale which was denied to the petitioner under such backdrop the respondent was directed to complete all Exercise with Six months & the petitioner was directed to file representation before the respondent Authority but the respondent erroneously decided after 3 years of the order passed by this Hon'ble Court.

A true photo copy of order dated 26.07.10 passed in CWJC No.1925 of 2003 is annexed herewith and marked on Annexure-3 to this application.

7. That the petitioner had filed almost a Dozen representation before filling the writ petition bearing CWJC No.1925 of 2003 & a Dozen representation after order dated 26.07.10 besides filling Contempt case before this Hon'ble Court among letter dated 24.01.11, 31.01.11 18.02.11 & 25.09.12 are important in nature.

A true photo copy of representation dated 24.01.11, 31.01.11 18.02.11 & 25.09.12 is annexed herewith and marked as Annexure -4 Series to this application.

8. That as stated above this Hon'ble high Court had directed the respondent to complete all Exercise with Six months in order to decide the case of the petitioner but the respondent failed to decide the case as a Contempt application was filed complaining willful disobedience of order dated 26.07.10 passed in CWJC No.1925 of 2003, as such the respondent decided the case of the petitioner by Memo No.1199 Dated 24.05.13 taken shelter of a letter issued almost simultaneous to the order dated 26.07.10 passed in CWJC No.1925 of 2003 & it can be said that the order dated 04.01.10 was passed viewing the case of the petitioner whereas it was ignored that the petitioner was accorded sanction by Memo No.885-2 dated 09.09.1992 issued under the signature of District Education Superintendent Madhepura the petitioner Md. Sami Ahmad

& another Sri Bijay Kumar Bikal was granted permission to appear in M.Sc Examination for session 1889-91 with the condition detailed in the letter & Sri Nawlesh Kumar Singh had also obtained Master degree remaining in service in similar circumstances in which the petitioner was obtained but Sri Nawlesh Kumar Singh was allowed Headmaster Scale from 24.08.1990 & the same was denied to the petitioner till today under erroneous letter dated 04.01.10.

A true photo copy of Memo No.1199 Dated 24.05.13 is annexed herewith and marked as Annexure-5 to this application.

9. That the petitioner has apprehension that the letter No.4 dated 04.01.10 was issued viewing the case of the petitioner by which the claim of the petitioner was defeated & the same was erroneously applied in the case of the petitioner who had obtained Master degree with the leave of the respondent (Annexure-2) prior to the issuance of the said letter particularly the same benefit was given to the Junior from the petitioner, or the man of contemporary stature.
10. That it is specifically proved that Junior to the petitioner who was appointed subsequent to the petitioner but allowed Metric & B.A Trained scale from 28.07.1985 itself but with utter discrimination the junior was allowed Headmaster Scale from 24.08.1990 but the same benefit was not given to the petitioner till today.
11. That the action of the respondent defeating the claim of the petitioner by letter No.4 dated 04.01.2010 is wholly unjustified since by Memo No. 885-2 dated 09.09.1992 (Annexure-2) the petitioner was granted permission to appear in M.Sc. Examination with the condition that he will not be allowed any other

leave except the casual & the earned leave & with further condition that there shall not be any hindrance in the teaching, as such the subsequent letter No.4 dated 04.01.2010 can not be applied in the case of the petitioner since the petitioner passed M.Sc Examination prior to the issuance of letter No.4 dated 04.01.2010 & further the same degree was acquired with the permission granted by the respondent itself with the condition stipulated in Memo No. 885-2 dated 09.09.1992, as such the respondent illegally taken shelter of letter No.4 dated 04.01.2010, in order to illegally defeat the legal claim of the petitioner.

12. That the letter No.4 dated 04.01.2010 was illegally applied in the case of the petitioner whereas those benefit which ought to given to the petitioner on 24.08.90 from the date the same was given to Sri Nawlesh Kumar Singh but the same was illegally denied to the petitioner as such the action of respondent is against article 14 & 16 of Constitution of India.
13. That it is **specifically proved that respondent's action is arbitrary malafide and is wholesale examples of arbitrary & colorable exercise of Power, since the petitioner & Sri Nawlesh Kumar Singh was allowed Metric & B.A Trained scale from 28.07.1985 itself but with utter discrimination Sri Nawlesh Kumar Singh was allowed Headmaster Scale from 24.08.1990 but the same benefit was not given to the petitioner till today.**
14. That *vides impugned order the respondent in order to justify their decision granting promotion to the junior illegally mentioned the date of appointment as 26.11.1970 in place of 20.03.1978 whereas in order to show the petitioner junior from Sri Nawlesh Kumar Singh date of*

*appointment of the petitioner was illegally mentioned wrong which was corrected by pen in the column of date of appointment which is proved from the Annexure-1 itself. A correct date of appointment is being given herein below*

<b>Sami Ahmad</b>	<b>23.09.76</b>
<b>Prem Shankar Mishra</b>	<b>01.03.81</b>
<b>Nawlesh Kumar Singh</b>	<b>20.03.1978</b>

14. That it is stated here that the petitioner & Sri Nawlesh Kumar Singh got one years teachers training in 1983 & was allowed Metric trained Scale from 28.07.85 but being graduate both were allowed B.A Trained from 28.07.85 itself but Sri Nawlesh Kumar Singh was allowed headmaster Scale from 24.08.1990 but the same was denied to the petitioner as such the discrimination as stated above are apparent & firstly the respondent illegally tried to shows the petitioner on the basis of date of birth which is wholly unreasonable.
15. That so far comparison with Sri Prem Shankar Mishra is concerned the petitioner & Sri Prem Shankar Mishra comes from Science Stream the petitioner was appointed on 23.09.76 whereas Sri Prem Shankar Mishra was appointed on 06.11.1980, but Sri Prem Shankar Mishra was allowed Metric Trained Scale 01.03.81 & B.A Trained Scale from 01.09.1982 & it is highly surprise that Sri Prem Shankar Mishra was allowed Headmaster Scale from 01.03.86 but the same was denied to the petitioner till today.
16. That the petitioner has no other suitable and equally efficacious and speedy remedy other than the present writ petition filed before this Hon'ble court under extra ordinary writ jurisdiction.

17. That the subject matter of this writ application challenging the impugned performs was never brought before this Hon'ble Court by the petitioner any time earlier.

It is, therefore, most respectfully prayed that your lordships may graciously be pleased to admit this writ application issue Rule Nisi ISI calling upon the respondents as to why the relief's prayed for above may not be granted and upon return of the rule and on such cause as may be shown and after hearing the parties be pleased to make the same absolute,

And/or

Pass such other order or orders as your lordships may deem fit and proper.

And for this the petitioner shall ever pray.

## AFFIDAVIT

I, Sami Ahmad S/O Late Md. Sabud Ali aged about 59 years R/O Village Khokshi P.O- Khokhshi Sharanpur, Via- Udakishanganj P.S- Gwalpara District – Madhepura do here by solemnly affirmed and state as follows:-

1. That I am petitioner in this case and as such well acquainted with the fact and circumstances of this case.
  
2. That I have gone through the contents of the main petitioner and have understood the same and statement made in Para 1-17 are true to the best of my knowledge and those made in Para .... are true of my information and the rest are by way of submission to this writ petition and the annexure are true/ photo copies of their respective originals.





पेज नं. 1

सं. 9459-992 राहुरा, दिनांक 26 अगस्त, 1953

प्रतिनिधिप्रचार्य, प्राथमिक शिक्षण शिक्षण महाविद्यालय, टी. कावट्टे को रा. उन्मार्थ  
एवं आचार्यक वरिष्ठ पेशित । उनरो अनुरोध कि वार्षिक शिक्षणो को समाप्त पत्र के  
बाँधो सादरान्त उनका नामांकन करेगे । नामांकित शिक्षणो की सूची अलग पत्र उपरो  
विशेषदत द्वारा अधोहस्ताक्षरी के माँरा दिनांक 5-9-1953 तक भेज दिया जाय ।

*(Signature)*  
(श्यामन्न्दने रहिय)  
क्षेत्रीय आशिक्षा निदेशक,  
की. सी. जर्मन्, राहुरा ।  
76015

संख्या - १०००

१०/७/७७

- १) श्री मदनलाल झा, मध्य विद्यालय, गोरगामा - २७-९-७६
- २) श्री मदनलाल झा, मध्य विद्यालय, गोरगामा - २७-९-७६
- ३) श्री मोहनलाल अहमद, मध्य विद्यालय, गोरगामा (जे.रा.) - २७-९-७६
- ४) श्री विद्यालाल कुमार राय, मध्य विद्यालय, गोरगामा (सि.पी.) - २७-९-७६
- ५) श्री मोहनलाल अहमद, मध्य विद्यालय, गोरगामा - २७-९-७६
- ६) श्री मोहनलाल अहमद, मध्य विद्यालय, गोरगामा - २७-९-७६
- (मुरलीगंज)
- ७) श्री घनश्याम प्रसाद "राणा", मध्य विद्यालय, कडामा - २७-९-७६
- (आलमनगर)
- ८) श्री बलराम लाल राय, मध्य विद्यालय, रविगट्टी पुल - २७-९-७६
- (कुमारगंज)
- ९) श्री मोहनलाल अहमद, प्राथमिक विद्यालय, गहरिया - २७-९-७७
- (सुरभीगंज)
- १०) श्री गुणाकर मिश्र, मध्य विद्यालय, बघवा (रामरीबकित्यारपुर) - २७-९-७७
- ११) श्री नवलाल अहमद, प्राथमिक विद्यालय, सुधियाली (मरोता) - २७/८/७७
- १२) श्री राम लाल अहमद, प्राथमिक विद्यालय, रंकरपर (द्वे.हर.) - २७/४/७७
- १३) श्री कमल लाल, मध्य विद्यालय, गोरगामा (मुरलीगंज) - २७/८/७७
- १४) श्री वि.पारसी झा, कन्या मध्य विद्यालय, पंचगछिया - २७/९/७६
- (आचार्य) (राहरा.उत्तर)
- १५) श्री गंगाधर झा, प्राथमिक विद्यालय, तुलागट्टी (गिरा) - २७-८-७७
- (आचार्य)
- १६) श्री रघुनन्दन झा, प्राथमिक विद्यालय, विवाट्टी - २७/७/७७
- (आलमनगर)

24/10/1977  
१०/७/७७  
(श्यामनन्दन राहस्य)

क्षेत्रीय उपशिक्षा निदेशक, कोशीप्रमंडल,  
राहरा ।

24/10/1977  
१०/७/७७

पेज - दो

- |  |          |
|--|----------|
| १७) श्री वीरेन्द्र नारायण झा , कन्या प्राथमिक विद्यालय, बभनी क्षेत्र<br>(रिहेश्वर) | २५/३/७४  |
| १८) श्री सुभद्रा यादव , मध्य विद्यालय, सुभद्रा (कुमारखंड)                          | १६/१०/७४ |
| १९) श्री श्यामनन्द सिंह , मध्य विद्यालय, जेलरोया (रोहनबर्षी)                       | १५/५/७४  |
| २०) श्री रामचन्द्र शर्मा , अधिकारी मध्य विद्यालय, मधुपुरा (मधुपुरा)                | १६/१२/७६ |
| २१) श्री अरुण कुमार , मध्य विद्यालय, भीमपारन्था, किशनपुर                           | २६/५/७७  |
| २२) श्री अब्दुल नारायण मंडल , मध्य विद्यालय, अजोली, किशनपुर                        | २६/५/७७  |
| २३) श्री नववेश कुमार सिंह , मध्य विद्यालय, बैलारी (कुमारखंड)                       | २०/३/७८  |

आई ० ब ०

- |  |         |
|--|---------|
| १) श्री राजेन्द्र राम , प्राथमिक विद्यालय, कलना (राघोपुर दक्षिण)     | २५/५/७६ |
| २) श्री कमला कर्मा मता , मध्य विद्यालय, अभुआड़ (किशनपुर)             | १/१२/७९ |
| ३) श्री म० हलीम , प्राथमिक विद्यालय, राजपुर मधुपुरा (किशनपुर)        | १/२/७७  |
| ४) श्री गुलाम रसूल , मध्य विद्यालय, मोहनपुर (नवहट्टा)                | २/२/७७  |
| ५) श्री इररदिल अहमद , प्राथमिक विद्यालय, मीमीन टोला (राघोपुर दक्षिण) | १५/२/७७ |

मेटि ३

- |   |         |
|---|---------|
| १) श्री महेश्वर पुरादे सिंह, कन्या प्राथमिक विद्यालय, रतौली (किशनपुर) | २२/५/७६ |
| २) श्री राय नारायण राम, प्राथमिक विद्यालय, खडई (किशनपुर)              | २२/५/७६ |
| ३) श्री मिश्री लाल पारावन, प्राथमिक विद्यालय, पड़री                   | २२/५/७६ |
| ४) श्री जगदीश राम, प्राथमिक विद्यालय, बैलारिगारमोर्त (निर्मली)        | २२/५/७६ |
| ५) श्री महेश्वर त्जरा, प्राथमिक विद्यालय, दुर्जनिया (रोहनबर्षी)       | १२/८/७६ |
| ६) श्री कमलेश्वरी रंजदार, प्राथमिक विद्यालय, पंचगछिया (मरोना)         | १९/४/७६ |
| ७) श्री बाणक रामपारावन, मध्य विद्यालय, पथरा (किशनपुर)                 | १९/८/७६ |
| ८) श्री दिगम्बर झा, प्राथमिक विद्यालय, लक्ष्मीनिया (छतपुर)            | २९/८/७६ |
| ९) श्री बिन्देश्वरी पाराव यादव, मध्य विद्यालय, पारसोनी (मरोना)        | २-१०-७४ |
| १०) श्री नित्यानन्द झा, कन्या मध्य विद्यालय, महिषी                    | १/१/७७  |

मदररा

- |  |        |
|--|--------|
| १) श्री राजे अहमद , मदररा नेमटिया, गम- बघेली, पो० महारमुपर<br>(कुमारखंड) | १/४/७७ |
| २) श्री मो० इनामूल हक , मदररा मोहमटिया के पोरनी, जिला मधुपुरा            | १/४/७७ |

का

प्रशासक, मध्य विभाग, गोरखपुर  
(कानून) की अनुमति के आधार पर  
निम्नलिखित शिक्षकों को जग 1989-91 के  
लिए (एच सी) की परीक्षा में बैठने की  
अनुमति निम्नलिखित शर्तों के साथ दी जाती है।

① आरक्षण अथवा 11% अनुमति प्राप्त करने  
वाले अथवा अनुमति नहीं होने वाली शिक्षक  
मात्र।

② (वर्तमान सी. परीक्षा-निर्वाह में किसी प्रकार  
का कार्यवाही उपरि उक्त शर्तों को ध्यान में रखते हुए।

③ वेतनमान अनुभवानुसार सी. के अनुसार देना  
होगा।

④ सी. (सी) अथवा (सी) शिप आदेशों पर (व. प्र. प्र.)

⑤ शि. निदेश प्रकाशित होने पर।

जिला शिक्षक कार्यालय

मदनपुरा

आपक 885-2

मदनपुरा दिनांक 9-9-88

प्रतिनिधि, लखनऊ (शिक्षण)

आ. म. वि. आदेशों की (रचनात्मक) परीक्षा

में शामिल

आदेश

DEPARTMENT OF POST  
BIHAR CIRCULAR  
COURT FEE  
AUTH NO. 3185 DT. 16/12/2000  
RECEIVED  
JUDICIAL  
5.1.2011  
BIHAR  
1948 742367C

IN THE HIGH COURT OF JUDICATURE AT PATNA  
CWJC N. 1925 of 2003

MD.SAMI AHMAD, son of Md. Sabud Ali, Assistant Teacher,  
Middle School, Naya Nagar, P.S. Udakishunganj, District  
Madheura.

Versus

1. THE STATE OF BIHAR
2. The District Superintendent of Education, Madhepura.
3. The District Magistrate, Madhepura.

3 26.7.2010

Heard counsel for the petitioner and counsel for the  
State.

Prayer of the petitioner in this writ application reads as  
follows:-

That this is an application for a direction  
to Respondent no.2 to consider the case of the  
petitioner for the post of Headmaster, Middle School  
under the circumstances of the case."

Mr. Om Prakash Upadhyay, learned counsel for the  
petitioner with reference to the aforementioned relief would draw  
attention of this Court to paragraph nos. 6 to 8 to the writ petition  
to submit that at least two persons junior to the petitioner, namely,  
Nawlesh Singh and Prem Shankar Mishra despite being junior to  
the petitioner had already been given such promotion on the post  
of Headmaster ignoring case of the petitioner. He would therefore  
submit that the petitioner would be entitled for grant of promotion  
on the post of Headmaster at lease from the date the  
aforementioned Nawlesh Singh and Prem Shankar Mishra had  
been granted such promotion on the post of Headmastr.

In this case counter affidavit has been filed by the  
respondents, wherein the District Superintendent of Education,

DEPARTMENT OF POST  
BIHAR CIRCULAR  
COURT FEE  
AUTH NO. 3185 DT. 16/12/2000  
RECEIVED  
JUDICIAL  
5.1.2011  
BIHAR  
1948 742367C

Madhepura (D.S.E.) has taken a stand that pursuant to the decision taken by the Full Bench of this Court a fresh gradation list are being prepared and promotion would be given in the light of the observation/direction given in the full Bench judgment in the case of 'Ram Nath Prasad Singh & Ors. Vs. The State of Bihar & Ors.' reported in 2009 (3) P.L.J.R. 384.

This Court would, however, find that in the counter affidavit the plea that the juniors to the petitioner had been given such promotion has not at all been explained and therefore while this Court would follow the ratio of the Full Bench judgment in the case of Ram Nath Prasad Singh (Supra), it would also like to make it clear that if juniors to the petitioner had been given such promotion on the post of Headmaster with monetary benefit, same treatment would also be extended to the petitioner. It however the juniors to the petitioners had been wrongly granted such promotion, the respondents will be at liberty to cancel the same before the same benefit is denied to the petitioner.

In order to expedite the matter the petitioner is given liberty to file a compact representation to the D.S.E. Madhepura and upon receipt of such representation along with a copy of this order, he would place the matter before the District Education Establishment committee and the Committee would take its final decision in this regard. Such exercise must be completed by the Committee within a period of six months from the date of filing of the representation by the petitioner along with a copy of this order

and if any amount is also found payable to the petitioner the same would be also paid to him in the next three months.

Let it be however made clear that this Court has not gone into merits of claim of the petitioner and the same has to be decided by the respondents strictly in accordance with law.

With the aforementioned observations and direction this application is disposed of.

Abhay Kumar

(Mihir Kumar Jha, J.)

COPYING

*Abhay Kumar*  
10/11

*[Faint handwritten notes]*

सेवा में,

श्रीमान् जिला शिक्षा अधिकारी  
मधेपुरा ।

विषय :- श्री डब्लु. जे. सी. नं. 1925 /2003 के फसला के सम्बन्ध में ।

महाशय, अधिनियम निवेदन यह है कि मेरी नियुक्ति 23.09.1976 ई. में हुई थी । श्री नवलखा प्रो सिंह की नियुक्ति 20.03.1978 ई. में हुई । 24.08.1990 ई. से ही श्री नवलखा प्रो सिंह प्रधानाध्यापक के वेतनमान में कार्य करते आ रहे है। श्री प्रेमनाथ मिश्रा की नियुक्ति 11.10.1980 ई. में हुई थी । इन्हें 01.03.1986 से प्रधानाध्यापक का वेतनमान दिया गया जोर मधुविठ नयानगर से 01.10.2007 ई. में सेवानिवृत्त भी हो गए ।

अतः श्रीमान् से विनती है कि मुझे भी 01.03.1986 ई. से ही प्रधानाध्यापक का वेतनमान देते हुए स्वीकृत करने की कृपा की जाए ।

विश्वासभाजन

श्रीमान् श्री अ. ए. ए. ए.  
मधुविठ समिति अध्यक्ष

मधुविठ

मधुविठ नयानगर

अंचल - उदाकिस्तुनगंज 89-8

जिला- मधेपुरा

दिनांक 24.01.2011

श्रीमान्  
24/1/11



श्रीमान् जिला उदाधिकारी,  
मधेपुरा ।

विषय :- सी.डब्लू.जे.सी.नं. 1925/2003 के फाते के सम्बन्ध में ।

महाशय,

सविनय निवेदन यह है कि मेरी नियुक्ति 23.09.1976 ई. में हुई थी । श्री नवलखा प्रो सिंह की नियुक्ति 20.03.1978 ई. में हुई । दिनांक 24.08.1990 से ही श्री नवलखा प्रो सिंह, प्रधानाध्यापक के वेतनमान में कार्य करते आ रहे हैं। श्री प्रेमशंकर मिश्र की नियुक्ति 11.10.1980 ई. में हुई थी । इन्हें दिनांक 01.03.1985 से प्रधानाध्यापक का वेतनमान दिया गया और मधुविठ नरयानगर अधिल - उदाधिकरण १ पं१ से 31.10.2007 ई. में सेवा नियुक्त भी हो गए । उपरोक्त दोनों प्रधानाध्यापक वृत्तियर है ।

अतः श्रीमान् से विनती है कि मुझे भी 01.03.1985 ई. से ही प्रधानाध्यापक का वेतनमान स्वीकृत करने की कृपा की जाय।

नोट :- 24.01.2011 को सी.डब्लू.जे.सी.नं. 1925/2003 के फाते की एक छाया प्रति डी.एस.ई.मधेपुरा को भी उपलब्ध करा दिया है ।

*(Handwritten signature and date)*  
2-01-11

*(Handwritten signature)*  
D-17  
(अधीन 6(4))

विद्ययासभाजन  
मौ. समी अहमद  
सं. शि. ०  
मधुविठ नरयानगर  
अधिल - उदाधिकरण १ पं. १  
जिला - मधेपुरा

दिनांक - 31.01.2011

सेवा में ,

विभागीय अधिकारी  
मधेपुरा ।

*Handwritten signature and date:*  
18/02/11

विषय :- सी.डी.डी. नं. 1925 /2003 के फाता के सम्बन्ध में ।

द्वारा , नदिनय निवेदन यह है कि वेरनी नियुक्ति 20.09.1975 ई. में हुई  
थी । श्री नयल्ला प्रो सिंह को नियुक्ति 20.03.1976 ई. में हुई । 20.05.  
1977 ई. से श्री श्री नयल्ला प्रो सिंह प्रानाध्यापक के पद पर कार्य करने  
लागे हैं। श्री प्रेमनाथ मिश्रा को नियुक्ति 11.10.1980 ई. में हुई थी।  
उन्होंने 01.03.1985 के प्रानाध्यापक का पद पर कार्य किया गया और नदिनय  
नयल्ला नगर से 01.10.2007 ई. में सेवानिवृत्त भी हो गए ।

अतः विमानु के विनती है कि मुझे भी 01.03.1985 ई. से  
हुए प्रानाध्यापक का पद पर कार्य करने की सुविधा दी जाय।

18.02.2011

विश्वनाथभास्कर  
श्री 00/सहा 31644  
श्री 00/सहा 31644  
सहायक  
म. वि. नयल्ला नगर  
अधीन - उदा विमानुज 05.8  
वि. नयल्ला - मधेपुरा

श्रीमानजिला कार्यक्रम पदाधिकारी, स्थापना,

मधेपुरा।

विषय :- सी 050000सी 0नं 0 1925/03 के वरीय होने का दावा पेश करने के संबंध में।

महाशय,

सिफय निवेदन पूर्वक कहना चाहता हूँ कि मेरी सोधी नियुक्ति वृत्तिका पर 15000 बिहार सरकार के विज्ञापन द्वारा हुयी। जि 01श 0अधी 0क, सहरसा के ज्ञापक 19,995-370 दिनांक 10 सितंबर, 1976 ई 0 एवं 23-09-1976 ई 0 में विज्ञान शिक्षक के रूप में हुयी। परंतु वृत्तिका समाप्त होने पर वी 0एस 0सी 0अप्री 0शिक्षित रहने के कारण मुझे 01-04-1977 ई 0 से जिला 0श 0अधी 0, सहरसा के ज्ञापक 9205-76, दिनांक 21 जून, 1977 ई 0 के आदेशानुसार मैट्रिक, अप्रीशिक्षित के ब्यतन वेतन पर वेतन मुगतान का आदेश पारित हुआ।

प्राथमिक विद्यालय के सरकारी करण की घोषणा सरकार ने 1973 ई 0 में की थी, परंतु सरकार ने 01-01-1971 ई 0 से सरकारी करण मान लिया। उस समय प्रबंधन समिति द्वारा प्राथमिक विद्यालय का संचालन होता था। सरकार द्वारा वि 0अधि 0ग्रहण होने के पश्चात शिक्षक एवं विद्यालय की सारी संपत्ति सरकार द्वारा अधिकृत की गयी थी। परंतु उस अवधि में श्री नवलेश प्रोसिंह, शिक्षक का अधि 0ग्रहण नहीं किया क्योंकि उस समय वह अप्रीशिक्षित थे। द्वितीय चरण में वी 0पी 0आई 0 से अनुमोदन के पश्चात इन्हें 20-03-1978 ई 0 में मैट्रिक अप्रीशिक्षित के वेतन देय हुआ। इसी लिए उनकी गणना 20-03-1978 के मुगतान तिथि से की जानी है। न की 1970 ई 0 से।

अतः उक्त परिपेक्ष्य में मेरी सोधी नियुक्ति बिहार सरकार के विज्ञापन द्वारा हुयी। नवलेश प्रोसिंह से मेरी नियुक्ति पहले है। श्रीपेम शंकर मिश्र की नियुक्ति 11-10-1980 ई 0 में हुयी थी। इन्हें दिनांक 01-03-1986 ई 0 से, प्रधानाध्यापक का वेतनमान दिया और म 0 वि 0 नयानगर अंबलउदा कश्चुनगंज 1500 से 31-10-2007 ई 0 में सेवा निवृत्त भी हो गए।

अतः श्रीमानसे विनती है कि मुझे भी 01-03-1986 ई 0 से ही प्रधानाध्यापक का वेतनमान स्वीकृत करने की कृपा की जास

विश्वासभाजन

मो 0 समी अहमद  
मो 0 समी अहमद 25/9/2

स 0 शि 0

M. UBAKISHANKAR (852220)  
A: FF11103268711N  
Counter No:1,OP-Code:FF01  
To:HE D N.NADHEPURA  
Madhepura S.O. PIN:852113



Wt:23grams.  
Amt:27.00 , 10/01/2013 , 12:12  
<<Have a nice day>>

M. UBAKISHANKAR (852220)  
A: FF11103269511N  
Counter No:1,OP-Code:FF01  
To:HE D S C.NADHEPURA  
Madhepura S.O. PIN:852113



Wt:24grams.  
Amt:27.00 , 10/01/2013 , 12:13  
<<Have a nice day>>

M. UBAKISHANKAR (852220)  
A: FF11101897711N  
Counter No:1,OP-Code:FF01  
To:JILA PROG PAMNINIK MADHEPURA  
MADHEPURA. PIN:852113



Wt:9grams.  
Amt:22.00 , 01/03/2013 , 13:48  
<<Have a nice day>>

# कार्यालय जिला शिक्षा पदाधिकारी, मधेपुरा

(स्थापना शाखा)

## कार्यालय आदेश

यह आदेश माननीय उच्च न्यायालय में सी० डब्लू० जे० सी० सं० - 1925/2003 मो० समी अहमद बनाम राज्य सरकार एवं अन्य में दिनांक 26.07.2010 को पारित न्यायदेश के क्रम में पारित किया जा रहा है। दिनांक 06.08.2012 एवं दिनांक 24.09.2012 को मामले की अद्योहस्ताक्षरी कार्यालय में सुनवाई की गयी।

न्यायदेश में अंकित है कि मो० समी अहमद के प्रोन्नति मामले को एल० पी० ए० नं० 985/1996 रामनाथ प्रसाद बनाम राज्य सरकार एवं अन्य में पारित न्यायदेश के आलोक में निष्पादित किया जाय एवं यह भी देखा जाय कि अगर वादी से कनीय शिक्षक को प्रधानाध्यापक का वेतनमान एवं आर्थिक लाभ दिया गया है तो वादी को भी दिया जाय तथा अगर वादी से कनीय शिक्षक को गलत प्रोन्नति दी गयी है तो उसे रद्द करते हुए वादी के दावे को अस्वीकृत की जाय।

वादी मो० समी अहमद द्वारा जिन दो शिक्षक के संबंध में बताया गया, वे श्री प्रेम शंकर एवं श्री नवलेश कुमार जिसे वादी द्वारा कनीय बताया गया। न्यायदेश में तुलनात्मक दोनों शिक्षक क्रमशः प्रेमशंकर मिश्र एवं नवलेश कुमार सिंह से वादी समी अहमद के वरीयता का आकलन किया गया, जो निम्नरूपेण है:-

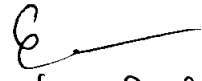
क्र०	शिक्षक का नाम	जन्मतिथि	नियुक्ति तिथि	मै० प्र० वेतनमान प्राप्ति तिथि	बी०ए०/बी०एस० सी० वेतनमान प्राप्ति तिथि	प्र०अ० वेतनमान प्राप्ति तिथि	स्नाकोत्तर करने का वर्ष
01	समी अहमद (विज्ञान)	19.01.1954	23.09.1976	28.07.1985	28.07.1985	-	20.10.1993
02	प्रेम शंकर मिश्र (विज्ञान)	10.10.1947	06.11.1980	01.03.1981	01.09.1982	01.03.1986	-
03	नवलेश कुमार सिंह (कला)	28.11.1953	26.11.1970	28.07.1985	28.07.1985	24.08.1990	05.10.1993

उपर्युक्त तुलनात्मक विवरणी से स्पष्ट पता चलता है कि श्री प्रेम शंकर मिश्र विज्ञान शिक्षक वादी समी अहमद से वरीय शिक्षक है तथा नवलेश कुमार सिंह कला शिक्षक एवं वादी समी अहमद विज्ञान शिक्षक दोनों का मैट्रिक प्रशिक्षित वेतनमान प्राप्ति तिथि समान है तथा वादी समी अहमद विज्ञान शिक्षक स्नातक प्रशिक्षित है जबकि श्री नवलेश कुमार सिंह कला स्नातक प्रशिक्षित शिक्षक है। दोनों शिक्षक का संवर्ग अलग होने के कारण उनका अंतर वरीयता का निर्धारण नहीं किया जा सकता है। मैट्रिक प्रशिक्षित वेतनमान प्राप्ति तिथि समान होने पर उनके जन्म तिथि के अवलोकन से पता

चलता है कि श्री सिंह भी मो० समी अहमद से वरीय हैं क्योंकि श्री नवलेश कुमार सिंह की जन्मतिथि 28.11.1953 है तथा वादी मो० समी अहमद की जन्मतिथि 19.01.1954 है। वादी समी अहमद सेवा काल में स्नाकोत्तर विज्ञान की डिग्री नियमित रूप से वर्ष 1993 में प्राप्त किये है।


प्रोन्नति नियमावली 2011 के आलोक में मो० समी अहमद के प्रोन्नति के दावे की समीक्षा जिला प्रोन्नति स्थापना समिति की बैठक में की गई। श्री मो० समी अहमद द्वारा सेवा काल में नियमित रूप से स्नाकोत्तर विज्ञान की योग्यता बढ़ाने के कारण निदेशक प्राथमिक शिक्षा बिहार के पत्रांक 04 दिनांक 04.01.2010 की कंडिका 02 में अंकित है कि "यदि किसी शिक्षक द्वारा एक ही अवधि में विद्यालय में उपस्थित रहकर वेतन प्राप्त किया गया है और उसी अवधि में किसी महाविद्यालय के नियमित छात्र के रूप में स्नातक/स्नातकोत्तर की डिग्री प्राप्त की गयी है तो ऐसे शिक्षकों की डिग्री को अवैध मानते हुए उन्हें प्रोन्नति देय नहीं होगी। साथ ही ऐसे मामले प्रकाश में आने पर संबंधित शिक्षकों के विरुद्ध अनुशासनिक कार्रवाई की जाए।" के आलोक में यह पाया गया कि मो० समी अहमद अपने सेवा काल में ही स्नातकोत्तर विज्ञान की डिग्री प्राप्त किये है। अतः समीक्षोपरांत सर्वसम्मति से मो० समी अहमद के प्रधानाध्यापक के वेतनमान में प्रोन्नति के दावे को अस्वीकृत कर दिया गया।

अतएव उपर्युक्त परिपेक्ष्य में मो० समी अहमद के प्रधानाध्यापक के वेतनमान में प्रोन्नति के दावे को अस्वीकृत किया जाता है।

  
जिला कार्यक्रम पदाधिकारी  
स्थापना, मधेपुरा।

ज्ञापांक.....1199.....दिनांक.....24-5-2013.....

प्रतिलिपि: वादी मो० समी अहमद स्नातक प्रशिक्षित विज्ञान शिक्षक म० वि० नयानगर प्रखंड उदाकिशुनगंज को सूचनाय एवं आवश्यक कार्यार्थ प्रेषित।

  
जिला कार्यक्रम पदाधिकारी  
स्थापना, मधेपुरा।  
24/5/13  
24/5/13