

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.396 of 2015

IN

Civil Writ Jurisdiction Case No. 20540 of 2014

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1. Akhilesh Kumar Singh, S/o- Late Shiva Singh, Resident of Village +
Post - Baikatpur, Rajpur Tola, P.S.- Khusrupur, District- Patna.

.... Appellant/s

Versus

1. The Bihar Agricultural University , Sabaur , Bhagalpur through its Registrar.
2. The Vice Chancellor, Bihar Agricultural University, Sabour, Bhagalpur.
3. The Registrar, Bihar Agricultural University, Sabour, Bhagalpur.
4. The In-charge Officer (Appointment), Bihar Agricultural University, Sabour, Bhagalpur.

Respondent/s

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Appearance :

For the Appellant/s : Mr. Onkar Kumar

For the Respondent/s : Mr. Chandra Mohan Singh

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 16-04-2015





The appellant is working as a Driver in the respondent-University on contractual basis since 2004. The University issued an Advertisement dated 15.04.2014 proposing to fill up the posts of driver. Initially the University issued advertisement in the year 2012. One of the conditions stipulated in the said advertisement of 2012 was that the candidates must hold Heavy Motor Vehicles Driving Licence. The appellant had challenged that condition. It is stated that this court took the view that imposition of such onerous condition is unwarranted. Thereafter the University issued advertisement dated 15.04.2014 inviting applications for the post . Clause 8 of the advertisement is to the effect that the restriction of age limit would be relaxed to the employees who are employed on casual/contract basis.

The grievance of the appellant is that the benefit under clause 8 is not being extended to him. Therefore, he filed C.W.J.C. No. 20540 of 2014. The learned single Judge dismissed the writ petition by order dated 12.01.2015. Hence this appeal.

Heard Shri Onkar Kumar, learned counsel for the appellant and Shri Chandra Mohan Singh, learned counsel for the respondents.

It is not in dispute that the appellant is working as a driver on contractual basis for the past one decade. The question of regularization of services of the employees working on casual basis



had become subject matter before the Supreme Court in S.L.P. No. 18594 of 1994 wherein their Lordships reiterated that 35% vacancies shall be filled up with the eligible and qualified casual employees and remaining 65% shall be filled by the process of selection or direct recruitment. There again, the weightage was given to the existing temporary or casual employees. The same pattern was directed to be followed for subsequent appointments also.

In the present case the University did recognize that some weightage or relaxation need be given to the existing temporary or casual employees. However, a very restricted interpretation is placed upon clause 8 and the appellant is denied opportunity to apply only on the ground that he is not a casual employee.

In our view, an employee engaged on contractual basis stands on higher footing than the casual employee. The reason is that the contract between the employer and employee enables the latter to work for a specific period, whereas the casual employees would be engaged, only if there exists work. The University did not dispute that the appellant is working with it for the past 10 years. Therefore, the University is not justified in treating the appellant on a footing, less than that of casual employee.

Accordingly the appeal is allowed. The order dated 12.01.2015 in the writ petition is set aside. The writ petition is

allowed and the respondents shall extend the benefit under clause 8 of the advertisement to the appellant.

The interlocutory application, if any, shall stand disposed of.

There shall be no order as to costs.

A.F.R.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

B.Roy/-/Rahman/

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