

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1640 of 2011

In

Civil Writ Jurisdiction Case No. 2710 of 1996

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Bharat Narain Mishra, son of Late Khaki Baba, resident of Bishwamitra
Ashram, Charitravan, Police Station - Buxar Town, District- Buxar.

.... Appellant

Versus

1. The State of Bihar.
 2. The Chancellor of Universities of Bihar.
 3. The Vice Chancellor, Vir Kunwar Singh University, Arrah.
 4. The Principal, Maharshi Vishwamitra College, Buxar, District- Buxar.
- Respondents

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Appearance :

For the Appellant : Mr. Ram Naresh Sharma
For the Respondents : Mr. Sarvdeo Singh, Advocate
Mr. Avanindra Kumar Jha, Advocate(AC to AAG-13)
Mr. Sunil Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

17 30-03-2015 This matter relates to appointment of a

Lecturer in an affiliated college (not constituent college).

The appellant claims that he was duly appointed by the

Secretary of Maharshi Vishwamitra College (hereinafter
referred to as 'College') and duly approved by the

governing body. The College Service Commission, in



fact, had sent two names, one was the petitioner-appellant and other was one Udai Narain Rai. The dispute arose between the two. The writ petitioner/appellant filed the suit claiming appointment of Udai Narain Rai to be illegal and claiming that he, being legally appointed, was senior to him and liable to be paid his remuneration. There were other issues as well. The suit was decreed and Sri Udai Narain Rai's appeal from original decree was dismissed. Sri Udai Narain Rai filed a second appeal before this Court being Second Appeal No. 260/1996. After notice to the writ petitioner/appellant and after hearing him, it was allowed and the suit brought by the writ petitioner/appellant was dismissed clearly holding in paragraph 35 thereof that the appointment of appellant/writ petitioner was illegal and he would not be entitled to salary as has been held by the Full Bench in the case of *Rita Mishra and others Vs. Director, Primary Education Bihar* reported in *1988 BLJR-1*.

The Review Application, filed by the writ petitioner/appellant, was also dismissed and appeal to the Supreme Court was also dismissed. Thus, right, wrong or indifferent, the order of the second appeal became final.

Notwithstanding the aforesaid, writ petition was filed praying for salary and retiral dues. The writ petition was dismissed. Hence, the appeal.

In view of the facts aforesaid, the writ petitioner/appellant, having suffered the judgment and decree of this Court in the second appeal aforesaid, which has attained finality, the writ petition was rightly dismissed. The appeal, being devoid of any substance is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Jitendra Mohan Sharma, J.)

Rajeev/-

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