

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.695 of 2014

IN

Civil Writ Jurisdiction Case No. 15667 of 2013

- =====
1. Nand Kishore Thakur s/o Sri Kusheshwar Thakur, resident of village Rasulpur, PS Karja, District Muzaffarpur, Routine Clerk, B R Ambedkar Bihar University, Muzaffarpur
 2. Upendra Kumar Dwivedi s/o late Jagannath Dwivedi, resident of village Chakri, PS Darauli, District Siwan, Routine Clerk, B R A Bihar University, Muzaffarpur
 3. Braj Mohan Roy s/o late Baidya Nath Roy, resident of village Parao Pokhar Lane- 3, PO Ramana, District Muzaffarpur, Routine Clerk, B R A Bihar University, Muzaffarpur
 4. Arun Kumar singh s/o late Yadunandan Singh, resident of village Panchgachiya, PS Bihra, District Saharsa, Routine Clerk, B R A Bihar University, Muzaffarpur
 5. Abhishek Anand, s/o late Pramod Ranjan, resident of village Pakri Ismail, PS Sadar, Muzaffarpur, Routine Clerk, B R A Bihar University, Muzaffarpur
 6. Kailash Mishra s/o late Shiva Chandra Mishra, resident of Jarangdih, PS Gaighat, District Muzaffarpur, Routine Clerk, B R A Bihar University, Muzaffarpur
 7. Sikandar Singh, s/o late Gita Prasad Singh, resident of village Gardh Sisai, PS Vidyapatinagar, Samastipur, Routine Clerk, B R A Bihar University, Muzaffarpur
 8. Nalin Kumar Vairagi s/o Nunulal Thakur, resident of village- Aganpur, PS Maniyari, District Muzaffarpur. Routine Clerk, B R Ambedkar Bihar University, Muzaffarpur

.... **Appellants**

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna
2. B R Ambedkar Bihar University, Muzaffarpur through its Registrar
3. The Vice Chancellor, B R Ambedkar Bihar University, Muzaffarpur
4. The Registrar, B R Ambedkar Bihar University, Muzaffarpur
5. Ram Nath Rai, s/o Sri Musafir Rai, resident of village Madapur, PS Kudhani, District Muzaffarpur
6. Krishna Kumar Singh, s/o not known to appellants, Routine Clerk, B R Ambedkar Bihar University, Muzaffarpur
7. K K Singh- II, s/o not known to appellants, Routine Clerk, B R Ambedkar Bihar University, Muzaffarpur

.... **Respondents**

WITH

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Letters Patent Appeal No. 1134 of 2014

IN

Civil Writ Jurisdiction Case No. 15667 of 2013

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1. Sri Krishna Kumar Singh son of Late Satrudhan Prasad Singh Resident of

village Kupri, Police Station Kudhani, District Muzaffarpur presently posted as Routine Clerk B.R. Ambedkar Bihar University, Muzaffarpur.

2. Sri Krishna Kumar Singh (II) son of Late Ambika Singh Resident of village Kalyani, Police Station Gayghat, District Muzaffarpur presently posted as Routine Clerk B.R. Ambedkar Bihar University, Muzaffarpur.

.... **Appellants**

Versus

1. Ram Nath Rai son of Shri Musafir Rai resident of village Madapur, Police Station Kudhani, District Muzaffarpur.
2. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
3. B.R. Ambedkar Bihar University, Muzaffarpur through its Registrar.
4. Vice Chancellor, B.R. Ambedkar Bihar University, Muzaffarpur.
5. Registrar, B.R. Ambedkar Bihar University, Muzaffarpur.
6. Sri Upendra Kumar Dwivedi, Routine Clerk, B.R. Ambedkar Bihar University, Muzaffarpur.
7. Sri Braj Mohan Rai, Routine Clerk, B.R. Ambedkar Bihar University, Muzaffarpur.
8. Sri Nand Kumar Thakur, Routine Clerk, B.R. Ambedkar Bihar University, Muzaffarpur.
9. Sri Arun Kumar Singh, Routine Clerk, B.R. Ambedkar Bihar University, Muzaffarpur.
10. Sri Abhishek Anand, Routine Clerk, B.R. Ambedkar Bihar University, Muzaffarpur.
11. Sri Kailash Mishra, Routine Clerk, B.R. Ambedkar Bihar University, Muzaffarpur.
12. Sri Shikandar Singh, Routine Clerk, B.R. Ambedkar Bihar University, Muzaffarpur.
13. Sri Nalin Kumar Vairagi, Routine Clerk, B.R. Ambedkar Bihar University, Muzaffarpur.

.... **Respondents**

Appearance :

(In LPA No. 695 of 2014)

For the Appellant/s : Mr. Sanat Kumar Mishra, Advocate

For the Respondent/s : Mr. Prasoon Sinha, Advocate

(In LPA No. 1134 of 2014)

For the Appellant/s : Mr. Lal Babu Singh, Advocate

For the Respondent/s : Mr. Prasoon Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

AND

HONOURABLE JUSTICE SMT. ANJANA MISHRA

C.A.V. JUDGMENT

(Per: HONOURABLE SMT. ANJANA MISHRA)

Date: 25-03-2015

Heard the parties.



2. These two *intra* Court appeals have been filed against the common judgment and order, dated 25.10.2013, passed in C.W.J.C. No. 15667 of 2013, whereby a learned single Judge of this Court has disposed of the writ application by quashing the order of promotion, dated 27.06.2013 (Annexure-19), and remitting the matter to the State Government to, first, decide whether there are available vacant posts of routine clerk, which can be filled up by way of promotion, from amongst Class IV employees. The learned single Judge has also observed and directed that once the vacancy is decided to be filled up, the cases for promotion of all Class IV employees be taken up and decided strictly according to the Statutes, which are to be notified by the Chancellor of Babasaheb Bhimrao Ambedkar Bihar University (hereinafter referred to as 'the respondent University'). By the judgment under appeal, the learned single Judge has further held that if the Statutes are not notified within three months, then, the respondent University will move the Chancellor for filling up the vacant posts of Routine Clerk from amongst all eligible Class IV employees of the respondent University.

3. The material facts, giving rise to the present

appeal, are briefly set out hereunder :-

(i) The appellants and the private respondents are all Class IV employees of the respondent University. They all have been functioning in the respondent University for a long time on various Class IV posts.

(ii) An agreement was arrived at between the State Government and the Universities of the State of Bihar, on the one hand, and the employees of the Universities, on the other hand, which provided for promotion of holders of Class IV posts to Class III posts.

(iii) In compliance of the agreement arrived at between the parties, the Commissioner -cum- Secretary, Department of Education, vide Memo No. 344, dated 18.06.1990, directed the Registrars of all the Universities of the State of Bihar to implement Clause 11(GA), which provided for promotion of employees of the Universities from Class IV to Class III as were applicable to other State Government employees.

(iv) The State Government, vide Memo No. 335, dated 16.09.1992, decided accordingly to fill up 50 per cent of Class III posts by way of promotion from amongst Class IV employees by holding a *limited competitive examination*.

(v) However, the respondent University, without referring to the resolution of the State Government, promoted some Class IV employees to Class III posts by way of regularization.

(vi) Since such promotions were made in violation of the above two resolutions, some class IV employees, including these appellants, filed writ application, which gave rise to C.W.J.C. No. 7261 of 1995. The said writ application was admitted, on 19.08.1997, on the following terms,

"Pendency of writ petitions will not stand in the way of the respondents to consider the cases of the petitioners for appointment against Class III posts."

(vii) The writ petition, namely, C.W.J.C. No. 7261 of 1995, was finally disposed of by order, dated 01.08.2013, on the submission of the State Government that the regulations had been sent to the Chancellor for approval.

(viii) It is important to note that during the period the writ application remained pending, the respondent University, vide Memo No. 3375, dated 16.09.2004, issued the decision of the meeting, dated



10.09.2004, held between the administration of the respondent University and the Bihar University Pragatisheel Karamchari Sangh. The Memo, dated 16.09.2004, clearly stated that in view of the decision of the Sub-Committee, constituted by the respondent University, on 21.06.1993, the respondent University would be filling up 50 per cent of Class III posts from Class IV employees.

(ix) However, the respondent University published notice, dated 06.05.2005, contained in Letter No. 727, inviting eligible Class IV employees to appear in a *limited competitive examination* to be held on 15.05.2005.

(x) The appellants, being eligible and having requisite qualifications, applied and appeared in the *limited competitive examination* held on 15.05.2005 and their names appeared in the panel/merit list of successful employees. Consequently, vide Memo No. 1006, dated 21.05.2005, the appellants were appointed on different vacant posts of Routine Clerk belonging to this category. As a consequence whereof, the employees, so promoted, were posted, vide Memo No. 1203, dated 10.03.2005, and the appellants joined their duties on Class III posts at their respective new places of posting.



(xi) The pay fixation of such promoted persons was placed for approval before Pay Fixation Committee. However, while the same was under consideration, the Vice Chancellor, vide Memo No. 1715, dated 04.08.2005, directed to keep the Memo No. 1006, dated 01.05.2005, aforementioned in abeyance and thereby restoring the *status quo ante* obtaining prior to issuance of the office order, dated 21.05.2005. By the said office order, Class IV employees, who were promoted on Class III posts, were reverted back to their earlier Class IV posts without giving them any reason and/or notice to show cause, if any.

(xii) Issuance of Memo No.1715, dated 04.08.2005, gave rise to another round of litigation inasmuch as the appellants herein and few others filed a writ petition, which gave rise to C.W.J.C. No. 10863 of 2005, challenging the Memo No. 1715, dated 04.08.2005, aforementioned. In the writ application so filed, this Court passed an order directing the respondent University, including its Vice Chancellor, in the following terms,

"... .. hereby directed to take a firm and final decision as with regard to the fate and future of the petitioners in relation to their right occurring from

appointment/promotion as contained in Notification No. B-1006 dated 21.05.2005 (Annexure – 7) within a period of three months from the date of receipt/production of a copy of this order”.

(xiii) Since the direction, as contained in order, dated 12.03.2008, passed in C.W.J.C. No. 10863 of 2005, were not complied with, the appellants filed an application seeking drawing of proceeding of Contempt of Court against the respondent University. The application, so made, came to be registered as M.J.C. No. 1616 of 2009.

(xiv) In the said contempt application, this Court, vide order, dated 09.02.2011, directed the Vice Chancellor and the Registrar of the respondent University to appear, in person, and explain as to why the order, dated 12.03.2008, aforementioned, passed in C.W..J.C. No. 10863 of 2005, had not been complied with. The respondent University filed their reply on 14.03.2011, annexing therewith the order, dated 12.03.2011, communicated vide Memo No. 50/R, dated 12.03.2011.

(xv) It is relevant to mention here that by the aforementioned order, dated 12.03.2011, it is clear



that the same had been issued on the basis of recommendations, made by the Committee constituted to explore the possible vacancy in Class III cadre so that fresh appointment/ promotion could be made. It was further mentioned, in the order, dated 12.03.2011 aforementioned, that the Committee had pointed out that there were posts of 23 Routine Clerk in excess of the sanctioned strength and out of 23 routine clerks, appointed in excess of sanctioned strength, 11 Routine Clerks had been working in the respondent University's Office, 8 (eight) had been working in various Departments of the respondent University and 4 (four) had been working in the respondent University's Printing Press and that in the 23 posts of Routine Clerks, so occupied in excess of sanctioned strength, appointments were made on *compassionate ground* of persons, who were heirs and successors of teaching and non-teaching employees of the respondent University.

(xvi) The Committee further indicated in Para C (1) of its report that the Committee had found 21 vacant posts of typist, 20 of such posts being available in the respondent University's office and 01 in its Post Graduate Department, which could be designated as Lower Division Clerk and that out of 21 available

vacancies, some of the vacancies (maximum 50 per cent of the available vacancies) might be filled up by those promoted persons, whose cases were screened by the Committee constituted by the Vice-Chancellor, but, later on, their promotions were kept in abeyance vide Letter No. B/1715, dated 04.07.2005. In its said report, the Committee also indicated that as dearth of typists, in the respondent University's office, had been hampering work, the said 12 persons may be given three months' time to gain workable proficiency in typing and, thereafter, their proficiency be evaluated by a duly constituted Committee. Thus, the Committee recommended that there were 21 vacancies in the posts of Lower Division Cadre on which the appellants herein could be accommodated. The appellants were none other than the persons, who had been promoted after screening by the Committee constituted by the Vice-Chancellor and whose appointment had been kept in abeyance.

(xvii) It is also relevant to point out here that vacancy position, in Class III posts, as on 31.03.2006, was as follows :-

Name of the office	Sanctioned Post	Working	Vacancy
University and its allied office	234	191	37
University Department	34	28	6



(xviii) It is also relevant to mention here that after the contempt application was dismissed by order, dated 16.03.2011, on the basis of the reply to the show cause notice issued in this regard, another writ application, bearing C.W.J.C. No. 8061 of 2011, was filed by the appellants and few others, who included the writ petitioners of C.W.J.C. No. 15667 of 2013.

(xix) It is important to mention here that since the promotional order, dated 21.05.2005, could not be given effect to and in view of the order, dated 12.03.2011, and also for want of vacant posts, the respondent University proceeded afresh to grant promotions to Class III post from amongst Class IV employees and in its meeting held, in this regard, on 16.08.2012, the respondent University decided to invite applications from desirous qualified and eligible Class IV employees for consideration of their promotion to Class III posts.

(xx) In view of the decision, so arrived at by the respondent University, on 16.08.2012, a notice, dated 23.08.2012, was published inviting applications from Class IV employees for their promotion to Class III posts.

(xxi) The appellants as well as writ

petitioners, accordingly, applied and the promotion Sub Committee, in its meeting, dated 06.09.2012, decided and recommended granting of promotion to eight eligible employees of Class IV against eight vacancies of Class III posts on the basis of *seniority-cum-merit*.

(xxii) In view of the aforementioned recommendation, the Statutory Promotion Committee, constituted vide Memo No. 46, dated 07.01.2013, held its meeting on 03.06.2013 and decided to promote the recommendees of Class IV employees to Class III posts and, accordingly, vide Memo No. 204, dated 27.06.2013, the appellants were promoted.

(xxiii) The said order of promotion came under challenge, in C.W.J.C. No. 15667 of 2013, by a writ petitioner, Ram Nath Rai, which was disposed of by order, dated 25.10.2013, whereby a learned Single Judge, while setting aside the promotions of these appellants, disposed of the writ application and remitted the matter back to the State Government to decide the question of availability of vacancies of the post of Routine Clerk and, thereafter, consider the cases of promotion of all Class IV employees, including the writ petitioners, in accordance with the Statutes, which are, now, to be notified by the Chancellor.

(xxiv) Being aggrieved by the order, dated 27.06.2013, the aforementioned appellants herein have preferred the present appeal.

4. In the backdrop of the facts as delineated above, it is evident that the case has a chequered history of litigation. The appellants, who had come to this Court, have clearly averred that there is no statutory provision for promotion from Class IV to Class III post save and except the agreement between the State Government, all the Universities of the State of Bihar and the respective employees' Union of the Universities, whereunder it had been agreed upon that some Class III posts must be filled up from Class IV posts by way of promotion and it was in the light of this agreement that the writ petitioner, along with some others, had filed CWJC No. 7261 of 1995, for a direction to consider their cases for promotion to Class III posts and the said writ petition was admitted for hearing by this Court.

5. However, in the year 2005, a notice was issued for *limited competitive examination* for promotions to Class III posts from amongst the employees of Class IV having matriculation as educational qualification. Thereafter, the appellants, along with some others, were promoted, vide order, dated 21.05.2005, but the said



order of promotion, though acted upon, was directed by the Vice Chancellor to be kept in abeyance with further direction to maintain *status quo ante*. As already indicated above, this direction gave rise to another writ application, bearing C.W.J.C. No. 10863 of 2005, challenging the order, dated 04.08.2005, whereby the order of promotion had been kept in abeyance. This writ application was disposed of with a direction to the respondent University to decide the cases of the writ petitioners within three months; but when the said direction was not carried out, an application, being MJC No. 1616 of 2009, was filed for initiating contempt proceeding and when notices were issued directing personal appearance of the Vice Chancellor and the Registrar of the respondent University, the respondents concerned appeared in the contempt proceeding and submitted that after the order, dated 04.08.2005, was passed, a reasoned order, dated 12.03.2011, was issued by the respondent University cancelling the earlier order of promotion, dated 21.05.2005, and, hence, the contempt application was dismissed. The writ petitioners, then, filed another writ application, bearing C.W.J.C. No. 8061 of 2011, putting to challenge the order, dated 12.03.2011, aforementioned.



6. While the writ petition, bearing C.W.J.C. No. 8061 of 2011, remained pending, the Sub-Committee of the respondent University, on 16.08.2012, decided to invite applications from desirous candidates for promotion against 50 per cent vacant sanctioned Class III posts. In this selection process, graduation was prescribed as minimum educational qualification for promotion to Class III posts excluding, thus, the petitioners of C.W.J.C. No. 15677 of 2013, as they were merely *matriculates*. It was alleged by the writ petitioners of C.W.J.C. No. 15667 of 2013, namely, Ram Nath Rai, that the persons, who were much junior to him, in the Class IV posts, had been considered for promotion. The writ petitioner alleged, in the writ proceeding, that the respondent University had regularized the services of some of the promoted persons' in the year 2011 and they had been promoted in 2013. It was further alleged by the writ petitioner that the Vice Chancellor is not competent to issue order of promotion and, hence, the promotions granted were clearly in violation of Article 14 of the Constitution of India.

7. The respondent University had a different story to tell. In the counter-affidavit filed before the writ Court, it is contended that the promotion order, dated



21.05.2005, was, as indicated above, cancelled, because vacancies were not available. It was contended that the State, vide letter No. 344 dated 18.06.1990, in accordance with the agreement arrived at amongst the State, the University and the employees, made it clear that 50 per cent of Routine Clerks were to be filled up by way of appointment/promotion of employees working on Class IV posts and the State had issued a Circular, dated 20.03.2013, whereby the exercise, undertaken in the year 2005, was made redundant. The respondent University also contended that the letter No. 2937, dated 31.03.2011, provides for appointment to Class III posts out of the employees working on Class IV posts with effect from 31.03.2011. It was further submitted by the respondent University that the minimum qualification for appointment to Class III posts was fixed as graduate keeping in the mind the State Government's Memo No. 124, dated 06.10.1986, and also to ensure the appointment of qualified persons. It is averred that the graduate qualification, at entry point of Class III employees, was to be insisted upon as had been done earlier by the respondent University during appointment of wards of deceased employees and a resolution to this effect was taken by the Committee constituted for such



appointment. It was stated by the respondent University that in order to implement the *tripartite agreement* amongst the State Government, the University and the Employees' Union, the appointment or feeder post, in Class III, was also to be made on the basis of graduation being the minimum educational qualification. The respondent University also contended that for Class IV posts, minimum qualification is matriculation and there is no provision for direct promotion to Class-III posts save and except the policy of the State Government incorporated in letter No. 344, dated 18.06.1990. The respondent University contended that only those persons were appointed from the Class IV employees of the University and its other allied offices, vide, order dated 27.06.2013, who were graduates and had been employees of the respondent University and allied offices. It was further contended by the respondent University that the three persons, named in the writ application, were appointed prior to 10.05.1986; but as sanctioned posts were not available at that time, they were not regularized earlier; however, they were regularized in the year 2011 on the ground of their having more than 25 years experience in Class IV posts. The respondent University further contended that the Vice Chancellor, in



the need of the hour, had, in exercise of his power under Section 10(6) of the Bihar State Universities Act, 1956, acted cautiously, keeping in view the State Government's Circular aforementioned and other provisions and was awaiting the approval of the State Government in the matter of promotion made in favour of the respondents inasmuch as the promotions involved financial implications.

8. Learned counsel for the appellants, while pressing the appeal, urges the following grounds in support of his case and for assailing the order of the learned single Judge. It was contended, on behalf of the appellants, that the order of promotion, granted to them, vide order, dated 27.06.2013 (Annexure-19), which had been quashed by the learned single Judge, is an order in accordance with the policy and the tripartite agreement among the State, Universities and the University Employees Union and, thus, the writ petitioner, having accepted the same, could not have been allowed to challenge the same at a later stage.

9. Learned counsel for the appellants further contends that the learned single Judge could not have unsettled the principle that fixing of eligibility criteria for appointment/ promotion to any post is within the

jurisdiction of the employer and that for promotion, seniority alone cannot be the accepted criterion; rather, it was seniority, qualification and past service records, which ought to form the criteria for promotion.

10. The other ground, urged by the learned counsel for the appellants, is that by virtue of tripartite agreement, the parties thereto had agreed to raise the qualification and pay scale for Class III employees of the respondent University and bring it at par with the pay scales of assistant in the State Government's Secretariat and, as such, the employees/ candidates, who were to be promoted to Class III posts, would be required to have graduation degree as their minimum education qualification.

11. Thus, in order to be appointed on the feeder post in Class III (Lower Division Clerk) and in order to receive requisite pay scale, Class IV employees of the respondent University, possessing graduation qualification, were among those considered for promotion and that the minimum qualification, for Class IV post in respondent University, is matriculation, but there is no provision, in the Statute, for direct promotion to Class III post from the Class IV post save and except the policy of the State, incorporated in Letter No. 344, dated



18.06.1990 aforementioned, which had been issued in terms of the tripartite agreement, whereunder the 50 per cent of sanctioned post of Lower Division Clerks were to be filled up by employees working on Class IV posts. In such a case, only a Class IV employee, having graduation qualification, is entitled for appointment to Class III posts. The writ petitioner, being an employee of the respondent University, is equally bound by the said agreement and he, being only a matriculate, could not have been considered for the said promotion.

12. Learned counsel for the appellants contends that the writ petitioner had no *locus standi* to challenge the order, whereunder the appellants have been granted promotion as the writ petitioner is merely matriculate as against the qualification possessed by the appellants, who, being Graduates, have an edge over the writ petitioner.

13. Learned counsel for the appellants submits that there is no specific provision, in the Statute of the University, for promotion of Class IV to Class III, but for the tripartite agreement, which can be enforced only in accordance with the guidelines adopted by the State and it was for this purpose that minimum qualification was fixed as graduation and the pay-scale of the petitioners

was under consideration.

14. The issue, which has to be resolved by this Court, is: whether there was any embargo on giving promotions from the post of Class IV posts to Class III posts as has been averred by the writ petitioner.

15. A perusal of Annexure- 16 to the writ application reveals that so long as there was a dispute between the respondent University and the Government as regards the number of posts available, the promotions of Upper Division Clerk and Class IV to Lower Division Clerk had been kept in abeyance. However, subsequent to the issuance of Annexure-16, the Statutory Promotion Committee, which met soon thereafter, resolved, vide Item No. 2 of its meeting, dated 13.06.2013, to promote and to fill up only 50 per cent of the total vacant sanctioned posts from those candidates, who possess Graduation degree as educational qualification on the basis of seniority. The proceedings of the meeting of Promotion Sub Committee, dated 06.09.2012, vide Item No. 5, mention that there were 21 sanctioned vacant posts and, as such, the Statutory Promotion Committee picked up 11 persons, i.e., 50 per cent of the total vacant sanctioned posts, to be promoted to the post of Assistant with immediate effect (Annexure- 17). It is important to





mention here that in the writ application, the writ petitioner (respondents herein) did not choose to challenge the decision of the Statutory Promotion Committee, whereby it had clearly decided to promote only those, who possess Graduation degree as qualification. The appellants before us are Class IV employees, possessing Graduation degree as qualification, who have been promoted by the Statutory Promotion Committee on the basis of their qualifications as also *seniority-cum-merit*. The order, dated 27.06.2013, impugned in the writ petition, is a merely communication made by the Registrar of the decision taken by the Vice Chancellor, in exercise of the power vested in him under Section 10 (6) of the Bihar State Universities Act, 1956. The said order was issued by the Vice-Chancellor not *suo motu*, but was issued on the recommendation of the Statutory Promotion Committee.

16. It is of prime importance to note that the respondent University's Statute did not, admittedly, provide for promotion from the post of Class IV to the post of Class III. Contrary to the provisions contained in the Statute, no promotion could have been made. The tripartite agreement, which had been entered into, gave only a right, if any, to the Class IV employees to demand



amendment of the Statute in order to incorporate therein the provisions of promotion from Class IV to Class III; but so long as the Statute remained unamended in tune with the agreement aforementioned, no promotion, in our considered view, could have been made from Class IV post to Class III post in the respondent University.

17. By the order under appeal, the learned single Judge quashed the impugned order of promotion, dated 27.06.2013, and remanded back the matter to the State Government to determine if vacant post of Routine Clerk available were to be filled by way of promotion from amongst the working Class IV employees of the respondent University and once the University is communicated availability of vacant sanctioned posts of Routine Clerk, it would proceed to decide the cases of promotion of all Class IV employees including the case of promotion of writ petitioners and the private respondents strictly in accordance with the Statute, which are to be notified by the Chancellor. By the order under appeal, the learned single Judge has made it clear that in the event, the Statutes are not notified within a period of three months from the date of receipt of the order, the University will move the Chancellor for giving appropriate guidelines for filling up the post of Routine Clerk from

amongst all the eligible Class IV employees of the University.

18. However, we are informed at the Bar that the rules, for granting promotion to Class IV employees of the respondent University, which had been awaiting the approval of the Chancellor, have, now, been given approval by the Chancellor. Hence, we direct further that since the order, dated 27.06.2013, has not attained finality, the case of the writ petitioner-respondents as well as writ petitioner-appellants be considered by the respondent University, in accordance with the Statute and Rules framed recently, for promotion. Consequent upon such consideration, necessary order of promotion may be made.

19. Situated thus, while not disturbing the order under appeal, passed on 25.10.2013, we direct that the case of the writ petitioners-respondents as well as writ petitioners-appellants be considered by the respondent University strictly in accordance with the Statute, recently framed and concurred upon by the learned Chancellor. Such consideration and decision shall be made within a period of three months from the date of communication of this order.

20. In terms of the above observations and

WEE
NOT

directions, this appeal is disposed of.

(Anjana Mishra, J.)

I. A. Ansari, J. : I agree.

(I. A. Ansari, J.)

Jagdish/-

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