

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17948 of 2014

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Dr. Budhi Nath Das son of Late Haleshwar Das, resident of Kilaghat, Bazidpur,
P.S. - Darbhanga Town, District - Darbhanga.

.... Petitioner/s

Versus

1. L.N. Mithila University, through its Registrar, Kameshwar Nagar, Darbhanga.
2. The Vice Chancellor, L.N.M.U., Darbhanga.
3. The Registrar, L.N.M.U., Darbhanga.
4. Dr. Pushpam Narayan, Associate Professor, University Dept of Music,
L.N.M.U., Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Pandey
For the University : Mr. Ajay Behari Sinha

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 08-12-2015

Petitioner is still an Assistant Professor in Music at S K Mahila College, Begusarai, which is a constituent college under L N Mithila University. He decides to approach the High Court when his claim for consideration and appointment as Head of Department was ignored and respondent No.4 was again appointed as HOD. This appointment, according to the petitioner, is in breach and violation of Statute relating to scheme of rotation of Headships dated 30.6.2008 (Annexure-1). Since his protest did not beget any relief or consideration from the University authorities, he filed writ application for a mandamus seeking a direction to appoint him as HOD.

2. According to the petitioner, respondent No.4 has already



held the post. There are only two teachers above the petitioner in the said department and now it was his turn to be appointed as an HOD. The re-appointment is not only in breach of the rule for consideration but also the Statute.

3. In the counter affidavit, the University rebuts the assertions of the petitioner for such a claim on the ground that the Statute contained in Anneuxre-1, read with Annexure-A dated 28.2.2014, makes it very clear that the rotation of Headships has to be between Professors and Readers of the Departments and only when the two categories of teachers are not available that even Lecturers (Assistant Professors) may also be considered.

4. Counsel for the petitioner may like to read the Statute according to what suits him, in the sense that the top 4 persons of the department are supposed to be under zone of consideration. He is in top three. Other two have already held the post of HOD. Therefore, even though he is only an Assistant Professor, his turn for consideration has come.

5. Such a stand or reading of the Statute will be doing violence to the words and expressions used therein. Therefore, the rotation cannot be expanded to include Assistant Professors when there are Associate Professors or Professors available in the department.

6. As a last ditch effort, counsel for the petitioner submits that petitioner is due for promotion, which would be evident from Annexure-B. That submission is of no avail for the reason that he may be due for promotion but so long as that promotion is not earned and notified, he continues to be an Assistant Professor even though he may come within the zone of consideration for such promotion.

7. Since promotion is not the issue in this writ application, the relief which petitioner is looking for, cannot be granted to him.

8. Writ application has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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