

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14996 of 2015

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Nand Kishore Prasad Singh, Son of Laxmi Narayan Singh, resident of at
and Post Office- Arma, Police Station- Kajra, District- Lakhisarai.

.... Petitioner/s

Versus

1. Bihar Agriculture University, through its Registrar, Sabour, Bhagalpur.
2. The Vice Chancellor (In-Charge) Bihar Agricultural University, having its Office at Sabour, Bhagalpur.
3. The Registrar, Bihar Agricultural University, having its Office at Sabour, Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. V.R.P.Singh, Advocate.
Mr. Mrityunjay Kumar, Advocate.

For the Respondent/s : Mr. Anil Kumar Upadhyaya, Advocate.
Mr. Chandra Mohan Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 28-09-2015

Heard learned counsel for the parties.

2. Learned counsel for the petitioner, in support of the

following prayer made in this writ application

"1. (i) For a direction to the respondents to reinstate the services of the petitioner after quashing the office order no. 278/DA . BAU Sabour dated 29.08.2015 issued in the signature of Deputy Director, Administration, B.A.U., Sabour (Annexure-9).

(ii) For a direction to respondent not to take decisions in policy matter, in the light of Letter No. AKU-03/2015- 3 0 dated 13.03.20 15 issued in the signature of Principal Secretary to the Governor, restricting the Vice Chancellor (In-charge) of Aryabhatta Knowledge University in taking decision in policy matter, which is a guideline for other persons holding the post of Vice Chancellor (In-charge).

(iii) To declare the 17th meeting of the Board of Management illegal, which was held without proper service of notice and without a copy of the Agenda of the meeting to the members of the Board."

has basically concentrated on the aspect that once the petitioner was granted extension of service under the valid decision of the



Bihar Agricultural University (hereinafter referred to as 'the University'), as was communicated to him on 22.05.2015, vide Annexure- 2 to the writ application, premature termination of service of the petitioner, by the impugned order dated 29.08.2015, cannot be sustained either on fact or in law specially when the petitioner was not given any opportunity of hearing prior to passing of the impugned order.

3. Mr. Anil Kumar Upadhyay, learned counsel appearing on behalf of the University, on the other hand, has submitted that so called resolution of the petitioner being granted 4th extension of contractual appointment on the post of Director, Works & Plant having been not approved by the Board of Management of the University, the petitioner did not get any substantive right to continue on the contractual post after expiry of the period of contract which had come to an end on 31.05.2015.

4. In this regard, he has referred the resolution of the Board of Management to show that the members, who had allegedly held meeting for extension of service of the petitioner on 19.05.2015, had themselves objected to such a resolution inasmuch as they were of the view that no such resolution was passed.

5. In the considered opinion of this Court, once it is an

admitted position that the petitioner is a retired Government servant, his contractual appointment, being made in the University, will have to be exclusively governed by the terms and conditions of the contract. It is not in doubt that the petitioner, on 01.06.2013, was engaged on contract basis for a period of six months or till alternate arrangement was made, which ever is earlier. To that extent, the order dated 01.06.2013 though not enclosed by the learned counsel for the petitioner in the writ application, the same has been produced at the time of making his argument and the same reads as follows:

"BIHAR AGRICULTURAL UNIVERSITY:SABOUR
O.O. No. 116/D.A.,BAU Sabour Dated 01st June 2013

OFFICE ORDER

In exercise of power conferred under Section 21(11) of chapter IV of the Bihar Agricultural University Act 2010, Er. Nand Kishore Prasad Singh, Retired Superintending Engineer (Civil), Water Resources Department, Government of Bihar is appointed on the post of Director, Works & Plant, Bihar Agricultural University, Sabour on ad-hoc basis for a period of six months, w.e.f. 01.06.2013 or till alternate arrangement whichever is earlier.

He will draw his salary as per Bihar Pension Rule.

By order of the Vice Chancellor

Sd/-

Director Administration"

6. As would be evident, as the contractual appointment of the petitioner was purely out and out not only limited by the period of six months but also had envisaged of its being terminated even prior to six months on making alternative arrangement. It is a different thing that the petitioner's such ad hoc arrangement was allowed to continue till 31.05.2015 by making



similar order of extension. Thus, if the Board of Management, in its meeting held on 19.05.2015, had considered the issue with regard to grant of further extension, which was probably 3rd extension, keeping in view the period of six months commencing from 01.06.2015, the authorities of the University had a reason to take a conscious decision as to whether the petitioner should have been granted further extension or not.

7. It is here that the dispute has arisen between the old Board of Management headed by the old Vice Chancellor and the new Board of Management headed by the Incharge Vice Chancellor. As per the recording made in the proceedings of confirmation of the decision taken in the meeting held on 19 .05.2015 and the next meeting held on 26.08.2015, it has been categorically mentioned that there was no decision taken much less approval given for extension of services of the petitioner. It was in this background that the post-facto approval sought in the decision communicated on 22.05.2015 was refused.

8. Learned counsel for the petitioner, however, tried to highlight that some of the records including the resolution of the meeting of the Board of Management were sent by e-mail to all the members of the Board and no one had raised any objection which would by itself go to show that such resolution for granting

extension to the petitioner was passed on 19.05.2015.

9. This Court would find it difficult to approve such procedure for ratification of the earlier decision inasmuch as in the meeting held on 19.05.2015 or for that any point of time, the Board of Management had never envisaged for mode of approval of resolution passed in the meeting. The normal procedure for approval of any of the meeting is that the resolutions are placed in the next meeting held for confirmation and subject to the views of the members present in the meeting, the decision is either approved or disapproved.

10. Here in this case, when the members themselves had categorically objected to recording of approval of grant of extension to the petitioner, the consequential decision communicated to the petitioner terminating his contractual appointment cannot be said to be bad either on fact or in law.

11. Let it be noted that the petitioner had no substantive right of being employed on ad hoc basis. The post was never advertised and neither the University had at any point of time made it open for all the retired employees of the rank and the petitioner to be screened and selected on merit.

12. In that view of the mater, the petitioner who got his appointment under the ex-Vice Chancellor and the Board of

Management by way of back door entry will have to also make way because that appointment, being wholly a contractual appointment, his continuation could only be till alternative arrangement being made which had conferred no right to the petitioner.

13. The best the petitioner could do for staking his claim was that he could have approached the Board of the Management for extension of such contract for the period 27.08.2015 to 30.11.2015, when last six months according to him would have been completed.

14. At that stage, both the petitioner and the University could be in a position to get the issue settled with regard to so called approval of the resolution of the Board of the Management either granting or not granting 4th extension to the petitioner.

15. That being so, this writ application must fail and is accordingly dismissed.

(Mihir Kumar Jha, J)

Sujit/-

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