

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 12932 of 2016

=====

Dr. Krishnandan Prasad Singh Son of Late Damodar Singh Presently Working in
Department of Mathematics, R.D. College, Sheikhpura, P.S. + District Sheikhpura,
under T.M. Bhagalpur University, Bhagalpur

.... Petitioner/s

Versus

1. Tilka Manjhi Bhagalpur University, Bhagalpur through its Registrar
2. The Vice - Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur
3. The Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur
4. Dr. Ramakant Prasad Singh Son of not Known, Professor - in - Charge, R.D.
College, Sheikhpura Under T.M. Bhagalpur University, Bhagalpur

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. P. K. Shahi, Sr. Advocate Mr. Arun Kumar, Advocate
For the Respondent/s	:	Mr. Rajendra Kumar Giri, Advocate
For the Respondent No. 4	:	Mr. Uma Shankar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 28-09-2016

Heard learned counsel for the parties.

Notification, contained in Annexure-4, issued under
the signature of the Registrar of Tilka Manjhi Bhagalpur University,
Bhagalpur, appointing the present petitioner as Professor Incharge
in R. D. College, Sheikhpura, issued on 30th of July, 2016, has
been annulled by Notification No. 137 of 2016, which is Annexure-
5. It is this annulment of Annexure-4, which has brought the
petitioner before the High Court, seeking its quashing.

Submission of learned senior counsel for the petitioner

is that the private-respondent no. 4, who had been restored back in the position of Incharge Professor by virtue of Annexure – 5, is not a Professor in real sense. He had been granted time-bound-promotion as a Professor, which basically means that it is a personal promotion, having some financial benefit, emerging therefrom. His substantive post, according to the petitioner, is that of an Assistant Professor, because he is enjoying the status of a Reader again under the time-bound-promotion scheme.

Contention of senior counsel is that law is well settled in quite a few decisions of the High Court. Some of them being **2008 (1) PLJR 641 (Devendra Narain Singh Vs. The B. R. Ambedkar Bihar University & Others)** and **2002 (3) PLJR 465 (Sachchidanand Singh Vs. The State of Bihar & Others)** that a time-bound-promotion granted to a Teacher in the university is a personal promotion and that cannot be used to derive benefit of seniority on a post. The substantive seniority has to be reckoned from the date of initial appointment.

It is also urged on behalf of the petitioner that in fact the petitioner has earned promotion under the merit-promotion scheme on the post of a Reader. A fact which cannot be disputed or denied, therefore, the petitioner rank senior to the private-respondent and that was the background under which Annexure-4 had been issued.

Certain developments have also taken place in relation to the private-respondent and that development relates to

a decision rendered by Justice S. N. Jha Commission, dated 24.05.2016, which is Annexure-3 to the writ application. Things, therefore, have to be considered keeping all these issues into mind.

Submission of the counsel for the private-respondent is that the petitioner is basically trying to challenge the promotions granted to the petitioner many many years ago and unsettle a settled position that the petitioner has been Incharge Professor by virtue of being the Professor in all these years and merely because the private-respondent is at the verge of retirement, he cannot be pushed out of the system and the position, which he occupied.

The facts being what they are, the law being what they are, the Court would like to give an opportunity, both to the petitioner as well as private-respondent, to place their facts before the Vice-Chancellor of Tilka Manjhi Bhagalpur University, Bhagalpur with regard to the substantive post and position, which the two rival contenders are holding. A decision on the issue of seniority thereof, before a fresh notification indicating as to who shall be the Professor Incharge, is required to be taken.

In the background noted above, Annexure-4 and 5 both would be required to be quashed and is quashed. The matter is remanded back to the Vice-Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur with a direction that he will render a decision within a period of six weeks and the corresponding notification

thereafter may be issued.

Writ application is allowed in terms of above.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	28.09.2016
Transmission Date	