

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14095 of 2013

=====

Dr. (Smt.) Bina Rani, Wife Of Dr. Radha Kant Prasad Resident Of Flat No. 402,
Aangan Apartment, Jagat Narayan Road, Kadamkuan, P.S. Kadamkuan, District -
Patna

.... Petitioner/s

Versus

1. The Patna University , Patna Through Its Registrar
2. Vice Chancellor, Patna University, Patna
3. Registrar, Patna University, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava, Adv.

For the Respondent/s : Mr. Ashok Kumar Keshri, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 15-12-2016

Heard learned counsel for the petitioner and counsel for the
State.

In this case, the petitioner is seeking merit promotion to the
rank of Professor but, the same has been rejected as the Expert did not
find her to be eligible for promotion on the ground that she does not
qualify the condition for promotion.

From the pleadings, it appears that the case of the
petitioner for promotion was referred for opinion of Expert, the first
Expert has given opinion in favour of the petitioner but, the second
Expert has given opinion against her and the third Expert found the
petitioner is fit for promotion from a particular date. Ultimately, the
petitioner has not been given benefit of promotion as a Professor.



During pendency of this case, the claim of petitioner for promotion to the post of Principal has been rejected vide order dated 5.8.2013 on the ground that she does not satisfy the qualification for the said post.

As this Court can give direction for consideration of promotion but, if the Expert has arrived to a conclusion that the petitioner does not satisfy the condition for promotion, the Court cannot sit over the opinion of the Expert as the Court has no expertise specially in the educational field. The Expert knows the subject which this Court does not have expertise, cannot sit over as appellate court, give direction to give recommendation in favour of the petitioner as the Experts are best to give recommendation either in favour of the candidate or against the candidate. The Court can interfere only in two circumstances, firstly, if there is an allegation of malafide and, secondly, if the findings arrived is completely perverse and no reasonable person can arrive to this finding. The present case does not fall in any of the two aforesaid conditions.

In the result, this Court does not find any merit in the present case and the same is dismissed.

However, if the University has any statute granting benefit in the Career Advancement Scheme, the petitioner will be at liberty to file an application and the authority concerned would take a decision



in accordance with law.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.12.2016
Transmission Date	

