

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5827 of 2011

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Rajeshwar Prasad Parbatiyar, son of Nand Kishore Prasad Verma, resident of village- Hajipur, Ward no.3, P.S. Town, district- Khagaria, at present working as an Assistant in Kosi College, Khagaria, under Tilka Manjhi Bhagalpur University

.... Petitioner

Versus

1. The State of Bihar
2. The Secretary, Human Resources Development Department, Govt. of Bihar, Patna
3. The Tilka Manjhi University, Bhagalpur through its Vice-Chancellor, Bhagalpur
4. The Registrar, Tilka Manjhi University, Bhagalpur
5. The Finance Officer, Tilka Manjhi University, Bhagalpur
6. The Principal , Kosi College, Khagaria

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ram Sumiran Rai, Adv.

For the Respondent/s : Mr. AC to AG

Mr. Rajendra Kumar Giri, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 03-03-2016 Heard Sri Ram Sumiran Rai, learned counsel for the petitioner, Sri Prabhu Narayan Sharma, learned AC to Advocate General as well as Sri Rajendra Kumar Giri, learned counsel for the Respondent nos. 3 to 5/Tilka Manjhi Bhagalpur University.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for directing the Respondents to regularise his services on Class-III non-teaching post in Kosi College, Khagaria. It has been claimed that the petitioner was initially appointed in the year 1984 as daily-wager. Subsequently, he was given appointment letter vide

Annexure-2 to the writ petition on 13.09.1991 issued by the Principal of the Kosi College, Khagaria. The petitioner vide Annexure-2 to the writ petition was appointed as Assistant in the college in question. The Kosi College, Khagaria is a constituent college of Tilka Manjhi Bhagalpur University,

On perusal of the pleadings in the writ petition, it also appears that the petitioner has claimed that he had appeared in an examination, which was held in the year 2002 for regular appointment on the basis of absorption. According to petitioner, the persons, who were having lesser merit, were selected ignoring the case of the petitioner. However, it has not been disputed that after 2002, the petitioner has not worked in the College.

Learned counsel for the petitioner accepts that after completion of selection process, he has been restrained from functioning. According to learned counsel for the petitioner, since the petitioner had worked from 1984 and he was having requisite qualification and merit, it is a fit case for directing the Respondents to regularize his services.

In this case, two counter affidavits; one on behalf of Respondent/ Tilka Manjhi Bhagalpur University and another on behalf of Respondent no.6/ Principal of Kosi College, Khagaria, have been filed. In the counter affidavit of the Principal of the



Kosi College, a plea has been taken that the petitioner has approached this Court after lapse of ten years from the date of selection/ interview. Similarly, in the counter affidavit of Respondent/ Tilka Manjhi Bhagalpur University, it has been indicated that after filing of the writ petition, the University sought certain information from the college in question regarding the claim of the petitioner. It was also asked (i) as to whether the petitioner was appointed against sanctioned post (ii) whether his appointment was approved by the University (iii) whether the petitioner was still functioning or not besides other information vide Annexure-A to the counter affidavit. The query sought by the University has been replied by the Principal of the College vide Annexure-B to the counter affidavit, which categorically discloses that the petitioner was initially engaged against non-sanctioned post and approval was never obtained from the University and also at the time of giving information i.e. 12.03.2013, the petitioner was not at all functioning . Regarding the claim of the petitioner, as to whether he participated in examination for selection in the year 2002 it has been indicated that due to non-availability of record for appearing in the selection process, it would be difficult to give certain information.

Besides hearing learned counsel for the parties, I have

also perused the materials available on record. Fact remains that once the examination for selection was held in the year 2002 and had the petitioner appeared in the selection process, the petitioner could have immediately approached this Court raising his grievances. However the petitioner sat over the matter for a long period and only after lapse of about nine years, the petitioner filed the present writ petition in the year 2011 itself.

In view of facts disclosed in the counter affidavit of the Respondent/Tilka Manjhi Bhagalpur University, it is difficult to pass any positive order in favour of the petitioner.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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