

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1096 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 21974 of 2014

Prabhat Kumar son of Dashrath Sah, resident of village Akopur, Post Akona, P.S. Singhiya, District Samastipur

.... Appellant/s

Versus

1. The Honble Chancellor, Universities of Bihar
2. Vice Chancellor, Lalit Narayan Mithila University, Darbhanga
3. Saket Kushwaha, son of Prof. S.S. Kushwaha, presently posted as Vice Chancellor, L.N.M.U., Darbhanga
4. The Chairman, University Grants Commission (UGC), Bahadur Shah Zafar Marg, New Delhi.

.... Respondent/s

Appearance :

For the Appellant	:	Mr. Abhinav Srivastava, Advocate
For the UOI and UGC	:	Mr. S.D. Sanjay, A.S.G.
For the LNM University	:	Mr. Ajay Bihari Sinha, Advocate
For Respondent No. 3	:	Mr. Nadeem Seraj, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 11-11-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 7th April, 2016 whereby the appointment of respondent no. 3 as Vice Chancellor of Lalit Narayan Mithila University, Darbhanga by way of writ of *quo warranto* was not interfered with.

Respondent no. 3 has worked as Professor in Abubakar Tafawa Balewa University, Bauchi, Nigeria, when he joined as such in the said University on 18th April, 2001. The said respondent later

joined as Professor in Banaras Hindu University on 2nd November, 2006. He was later appointed as Vice-Chancellor as he has requisite experience of 10 years as Professor.

The appointment of Vice- Chancellors in the State are governed by Section 10 of the Bihar State Universities Act, 1976 (hereinafter referred the as the 'Act') which reads as under:

“10. The Vice-Chancellor.-(1) (i) Persons of the highest level of competence, integrity, morals and institutional commitment are to appointed as Vice-Chancellor. The Vice-Chancellor to be appointed should be a distinguished academician, with a minimum of ten years of experience as Professor in a University system or ten years of experience in an equivalent position in a reputed research and/or academic administrative organization.”

The argument of learned counsel for the appellant is that the respondent no. 3 does not possess the experience of the post of Professor for 10 years which is equivalent to the post of Professor in India and, thus, he is not eligible for appointment as Vice Chancellor of the University governed by the Act. The said aspect has been considered by the learned Single Bench when it recorded the following findings:

“10. Besides the question of law urged as above, learned senior counsel has categorically submitted that the University where the private respondent was a teacher and also held the post of a Professor is a State University in Nigeria, which follows the same pattern of appointment and

promotion as the Indian system and to buttress that position, attention of the Court was drawn to page 575 of the brief, which is a part of the handbook of the Regulations Governing the Conditions of Service of Senior Staff of the University, which is Annexure-W to the 3rd additional counter affidavit filed on behalf of respondent No.3. If this be so, then the whole argument or the doubt which was sought to be built upon the authenticity of the University in question where the private respondent worked as a Lecturer, Reader and then as a Professor cannot be a matter of debate any further.

11. Learned senior counsel has also handed over to the Court two annual reports which were published and issued by the University relating to the year 1995/1996 and 1997-2001 to show that the private respondent has been shown to be a Member of the staff in the teaching branch and the post and position which he held in the said University during the period in question, which included the post of Professor prior to the private respondent being appointed as a Professor in BHU.”

Page 575 Appendix III of Annexure-W which is part of the handbook of the Regulations governing the conditions of service of senior staff of the Abubakar Tafawa Balewa University shows that the post of Professor in the Foreign University is the highest teaching post. He was appointed against such post on 18th April, 2001. The relevant extract from Appendix III reads as under:

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| “1. | Graduate Assistant (CONUASS 01): | Bachelor’s Degree at least with 2 ¹ in relevant field +NYSC |
| 2. | Assistant Lecturer (CONUASS 02): | Graduate Assistant with Master’s Degree from recognized University +3 years relevant experience. |

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| 3. Lecture II
(CONUASS 03): | Assistant Lecture with 3 years relevant experience + requisite number of publications. |
| 4. Lecture I
(CONUASS 04): | Lecture II with 3 years relevant experience + requisite number of publications. |
| 5. Senior Lecture
(CONUASS 05): | Lecture I with 3 years waiting period, PhD in relevant field +requisite number of publications. |
| 6. Reader
(CONUASS 06): | Senior Lecture with 3 years relevant experience, PhD in relevant field + requisite number of publications. |
| 7. Professor
(CONUASS 07): | Reader with 3 years relevant experience + requisite number of publications.” |

On the other hand, the Professor is the highest post in Indian system as well. Since the respondent no. 3 has worked as Professor in the Highest Post in a foreign University, therefore, he possesses the requisite experience of the post of Professor which makes him eligible for appointment to the post of Vice Chancellor.

The argument of learned counsel for the appellant is that the respondent no. 3 became Professor after 8 years of teaching experience whereas in Indian system one would become Professor after attaining minimum 10 years of experience. Therefore, the teaching experience as Professor in a Foreign University cannot be treated as equivalent to that of the Professor in Indian Universities.

We do not find any merit in the said argument. Condition in Section 10 of the Act is the experience on the post of Professor for a period for 10 years. The respondent no. 3 was Professor for more than 10 years including the years as Professor in a Foreign University

and a Indian University. He was holding the post of teaching faculty i.e., Professor for more than 10 years. Therefore, it cannot be said that the respondent no. 3 does not have the requisite experience of the post of Professor to be ineligible for appointment to the post of Vice Chancellor.

The finding recorded by the learned Single Bench is that the degree provided by the Foreign University has been treated equivalent to the degree awarded by the Indian University. Therefore, the respondent no. 3 has been validly appointed having requisite experience of 10 years of Professor.

In view thereof, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal.

Consequently, appeal is dismissed.

(Hemant Gupta, ACJ)

(Ahsanuddin Amanullah, J)

Anjani/P. Kumar

AFR/NAFR	AFR
CAV DATE	N/A
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