

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5317 of 2013

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Ram Surat Bairagi S/o Late Ram Nihora R/o Mohalla- Adampur (Kaligali Lane),
P.S.- Adampur, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Higher Education, Government of Bihar,
Patna.
2. Vice Chancellor, T.M. Bhagalpur University.
3. Registrar, T.M. Bhagalpur University.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Siyaram Shahi and Rajeev Ranjan Singh

For the Respondent/s : M/s Amarendra Kumar and Anjani Kumar

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 15-03-2016

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

In this case, the petitioner is seeking relief of quashing
the Memo no. TMBU-38/08-GS (1) 3315 dated 22.09.2009 passed by
the Chancellor, University of Bihar and further made a prayer for
payment of salary for the period from 31.07.2002 to 09.06.2007 and
till date.

From the record it appears that the UGC under the Five
Year Plan, sanctioned two non-teaching posts in the year 1975, again
six posts in the year 1978 with a condition that the University and the
State Government would bear the financial burden of such employees
after the Commission's Aid is ceased. The letter of the State



Government dated 2/5/1977 informed that the entire expenditure on the posts created under the Five Year Plan period by the UGC, will be borne by the State Government with effect from 01/04/1981 onwards, subject to the condition that appointment to these posts are made as per the prescribed procedure and norms and also in the prescribed scale as recommended by them from time to time. The UGC had sanctioned eight posts whereas the State Government has sanctioned only two posts which is clearly apparent from the letter dated 02/05/1977 subject to following due process of law. The University without looking to the guidelines given by the State Govt., appointed more than sanctioned strength and they were given salary and other benefits. In the meanwhile, the State Government directed the Registrar to stop payment to all the employees who were appointed under the USIC Scheme and later on, service of the petitioner including all staff were terminated with effect from 3.7.2002.

The petitioner was again reinstated vide letter no 40 dated 19th February 2005 and that letter was kept in abeyance, vide letter no. 47 of 2005 dated 9th March 2005 issued by the University which is still abeyance, in sum total the petitioner has worked altogether 18 days in pursuance of letter no. 40 dated 19th February 2005.

There is no dispute, the petitioner has been paid salary



upto the year 2002. Only grievance has been raised by the petitioner that still he is discharging the duty, as per the petitioner, though the appointment of the petitioner has been kept in abeyance and so much so that it is also relevant to note that the appointment of the petitioner and others were under the Scheme on the aegis of the UGC, but one fact is that the Government had taken decision that after 1981 the cost will be borne by the State Government.

The petitioner has approached this Court in CWJC No.7769/2008 which was disposed to approach Hon'ble Chancellor. Hon'ble Chancellor heard, decided the case on merit and rejected the claim of petitioner.

The respondents have not accepted the plea of petitioner, held that the original scheme was sanctioned only for five years duration which expired on 6/4/1978, but would continue subject to the condition that the University and the State Government shall bear the financial burden further. Since the State Government is not inclined to provide the fund in USIC Scheme led to dispensing with service of petitioner and accordingly, the service of the petitioner has been dispensed with from July 2002.

In such view of these circumstances, this Court does not find any error in the order of the Hon'ble Chancellor. However, as the counsel for the petitioner submits that the Government, vide letter

dated 2nd May 1977, assured financial assistance to the scheme, the petitioner continued to work. The State Government will continue or not continue the scheme, it is within the domain of the State Government, this Court cannot compel the State Government to continue the scheme and give financial assistance. However, the petitioner, if so advised, may approach the Principal Secretary, Department of Education, Government of Bihar with a detailed representation and the Principal Secretary will examine the matter and pass a necessary order within a period of six months from the date of filing of such representation.

With the above observation/direction, this petition is disposed of.

(Shivaji Pandey, J)

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