

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5305 of 2014

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1. Dr. Bipin Kumar Choudhary Son Of Late Bal Mukund Choudhary Resident Of
Village - Mahmada (Darber), P.S. - Pusa, District - Samastipur

.... Petitioner/s

Versus

1. The Rajendra Agricultural University, Bihar, Pusa, Samastipur through Its Registrar
2. The Vice-Chancellor, Rajendra Agricultural University, Bihar, Pusa, Samastipur
3. The Director Administration, Rajendra Agricultural University, Bihar, Pusa, Samastipur
4. The Assistant Director (Administration) Rajendra Agricultural University, Bihar, Pusa, Samastipur
5. The Recruitment Officer, Rajendra Agricultural University, Bihar, Pusa, Samastipur
6. The Assistant Recruitment Officer, Rajendra Agricultural University, Bihar, Pusa, Samastipur
7. The Deputy Recruitment Officer, Rajendra Agricultural University, Bihar, Pusa, Samastipur
8. The Chairman Recruitment, Rajendra Agricultural University, Bihar, Pusa, Samastipur
9. The Director Cost of Cultivation, Rajendra Agricultural University, Bihar, Pusa, Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar

For the Respondent/s : Mr. Arvind Ujjwal

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 22-04-2016

Petitioner wants a mandamus to be issued upon the respondent Rajendra Agricultural University to appoint him on the post of a Field Overseer/ Field man as per the assertion made in the writ application. Petitioner was one of the candidates, who applied and came to be shortlisted after interview, as would be evident from Annexure- 2 to the writ application. Name of the petitioner figured at



serial no.14 in the merit position. 13 persons came to be appointed from the general category. Petitioner missed out the opportunity for such appointment because of the merit position where he stood. However, as per the petitioner one Lakshman Prasad Yadav, who was also shortlisted and was at serial no.11 of the merit list, resigned from the post of Field Man, after his appointment. A vacancy, according to the petitioner, therefore, came to be created and he moved the authorities to consider his claim. Repeated pleas of the petitioner fell on deaf ears of the University, therefore, he decided to file the present writ application for a mandamus to appoint the petitioner against the vacancy so caused.

Learned counsel for the petitioner relies on two decisions reported in *1994 BBCJ 495 (Md. Kalimuddin & ors. Vs. the State of Bihar & ors. and (2000) 3 SCC 699 (State of U.P. Vs. Ram Swarup Saroj)* on the principle that if a claim has been raised during the subsistence of the life of the panel and if a grievance has been raised or issue agitated before the Court, the expiry of the life of the panel will not come in the way of the petitioner's claim being maintained or a relief being granted, if a case was made out.

The two decisions in no manner help the case of the petitioner because the principles of law are dependent on the facts based on which assertions have been made. There is no dispute that



based on Annexure- 2, appointments came to be made on the post of Field Man. Those selected were offered the appointment letter. They all joined and they are working except for one Lakshman Prasad Yadav, who decided to resign. It is this vacancy which the petitioner is claiming through the present writ application.

The law in this regard is rather well settled that the moment the appointments are made and process completed, any vacancy caused due to non-joining or resignation cannot create a right for consideration for appointment from the panel because the moment such appointments are made, the panel lapses. In fact, it has already been held by Courts that vacancy arising from such non-joining or resignation would be required to be carried over for future appointments and the authorities lose their right to fill up such post, caused due to such vacancy.

In the present case, appointments had already been made. The seats were filled up. Merely because one of the candidate resigned after joining, it cannot be treated as a vacancy meant to be filled up by any other candidates from the panel much less the present petitioner. The life of the panel ended by virtue of such appointments and the vacancy will be carried over against future appointments.

The respondents in their counter affidavit have taken a plea that the life of the panel had expired and, therefore, they did not

consider the claim or the grievance of the petitioner for such appointment.

The stand taken by the University cannot be said to be irrational, perverse or otherwise illegal because the panel does lapse. The moment the appointment process is completed, any vacancy caused subsequently cannot accrue to the benefit of any person, who may be in the shortlisted category of the panel.

The writ application, therefore, fails and is dismissed accordingly.

(Ajay Kumar Tripathi, J)

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