

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9362 of 2015

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1. Md. Ghulam Murtuza S/o Late Md. Ghulam Imam Resident of Muhalla -
Rekabganj, P.O. - Bhagalpur City, P.S.- Tatarpur, District - Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Higher Education, Govt. of Bihar, Patna.
2. The Tilka Manjhi University, Bhagalpur.
3. The Vice - Chancellor, Tilka Manjhi University, Bhagalpur.
4. The Registrar Tilka Manjhi University, Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey
Mr. Viveka Nand Pathak

For the Respondent State: Mr. Ravindra Kumar Priyadarshi, SC32

For the University : Mr. Ashhar Mustafa

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 20-04-2016

Petitioner was granted promotion as per the notification contained in Annexures - 11 and 12, issued under the signature of the Registrar of the University on the direction of the Vice-Chancellor of the University. The promotion was to the post of Chief Programmer. Petitioner was holding the post of Assistant Programmer earlier. When the said post became vacant, the above promotional orders came to be passed.

From a reading of Annexure-12 dated 01.07.2013 it is evident that the Chief Programmer's post carried the pay-scale of a Reader, which can be corroborated by notification, contained in



Annexure-2 as well as Annexure-6/1. However, by a unilateral decision taken by the Syndicate on 12/08/2013 without any notice or opportunity to the petitioner, the Syndicate by Resolution No.3 withdrew the order of promotion, contained in Annexure-12. Petitioner, therefore, is challenging that decision in the present writ application and wants its quashing.

The University counsel as well as the affidavit filed on behalf of the University does not clearly explain the reason which led to passing of Resolution No.3 by the Syndicate. From a reading of the said resolution it seems that the Syndicate got carried away by the fact that the petitioner has been given the status of a Reader and the reason indicated seems to be that as to how a non-teaching employee has been given the status of a teaching employee or a teacher.

Counsel for the petitioner very emphatically submits that petitioner is not looking for the status of Reader in any manner. He wants the pay-scale which has been extended to that post or equivalent or at par with Reader. This is what the recommendation of UGC is. He is not further claiming any other benefit as a Reader.

If that be so, the said resolution No.3, contained in Annexure-13, in relation to the petitioner withdrawing the benefit of promotion would be required to be quashed.

Counsel of the University submits that there is yet another

infirmity with regard to Anneuxre-12. This promotion order has been issued at the level of the Vice-Chancellor without putting up the case of the petitioner through the promotion committee.

If the Vice-Chancellor has committed an omission by not following the procedure, petitioner cannot be penalized for the same. The highest authority of the University is required to know as to what is the established procedure for such consideration and decision-making.

Writ application, therefore, stands allowed. As a consequence thereof, even Anneuxre-1 dated 11.03.2014 stands quashed.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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CAV DATE	
Uploading Date	21/04/2016
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