

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11904 of 2011

Chitranjan Singh son of Late Haribansh Narayan Singh, resident of Mohalla-Pokharia, North Kali Asthan, P.O.+ P.S. Begusarai, Distt. Begusarai, a superannuated teacher, Department of Economics, G.D. College, Begusarai

.... Petitioner

Versus

1. The State of Bihar
2. The Director, Higher Education, Govt. of Bihar Patna
3. The Vice-Chancellor, L.N.Mithila University, Darbhanga
4. The Registrar, L.N.Mithila University, Darbhanga
5. The Finance Officer, L.N.Mithila University, Darbhanga
6. The Principal G.D. College Begusarai, Distt. Begusarai

.... Respondents

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Singh, Adv.
For the Respondent/s : Mr. AC to AAG-13
Mr. Md. Nadim Seraj, Adv.

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 09-05-2016

Heard Sri Shashi Bhushan Singh, learned counsel for the petitioner, learned AC to AAG-13 as well as Mr. Md. Nadim Seraj, learned counsel for the Respondent/L.N.Mithila University.

2. The petitioner, who superannuated with effect from 31.01.2001 has approached this Court invoking its writ jurisdiction under Article 226 of the constitution of India , mainly with a prayer to quash a letter, contained in Memo no.10239-831 dated 28.07.2010 to the extent of Sl. No.450. By the said order, altogether 511 University Professors/Readers/Lecturers were shifted to a lower post.

3. It is case of the petitioner that vide Annexure-5 to



the writ petition, on the recommendation of the Bihar State Universities(Constituent Colleges) Service Commission, Patna he was promoted to the post of University Professor of Economics and said order was given effect from 29.11.1993. However, all of a sudden, without any notice to the petitioner and without affording any opportunity, the Respondent/ Registrar, L.N.Mithila University has come out with the impugned order and the petitioner has been reverted to the post of Reader.

4. Learned counsel for the petitioner tried to persuade the Court that the entire action of the Respondents was illegal since the petitioner was earlier promoted as Professor by a valid order. A specific stand has been taken that without affording any opportunity to the petitioner, the impugned order has been passed.

5. In this case, counter affidavit has also been filed. Pursuant to order dated 06.04.2016 passed by this Court, whereby the learned counsel for the University was asked to file a specific counter affidavit on the point as to whether before issuance of impugned order, the petitioner was provided any opportunity of hearing or not. In compliance to this order, a supplementary counter affidavit was filed on behalf of Respondent nos. 3 to 5 and in paragraph-6, it has been admitted that no individual show cause notice was issued. Mr. Md. Nadim Seraj, learned counsel for the University



, by way of referring to provision contained in 2nd proviso to Section 4(14) of the Bihar Universities Act, 1976, submits that the Statute itself empowers the University to make certain correction in case of detection of some illegality or irregularity and, as such, according to learned counsel for the University, the University was having such power to annul such irregularity and for that purpose, there was no necessity to issue individual show cause notice. It has been stated that along with the petitioner other 510 such University Professor/Readers/Lecturers were reverted. The Court is of the opinion that once the right of the petitioner had accrued by virtue of issuance of Annexure-5, whereby the petitioner was promoted as Professor with effect from 29.11.1993, even after such a long time, the University was not having any authority to cancel the order without affording any opportunity of hearing to the petitioner.

6. In view of facts and circumstances, since the order impugned was passed in violation of principles of natural justice, the Court is of the opinion that the order impugned is required to be interfered with. Accordingly, the order contained in Annexure-11 i.e. the letter contained in Memo No.10239-831 dated 28.07.2010 to the extent of Serial no.450, which relates to the petitioner, is hereby set aside.

7. Since the order impugned has been set aside, the

petitioner shall be entitled to get all consequential benefits from the date of issuance of impugned order. All the formalities must be completed within three months from the date of receipt/production of a copy of this order.

8. Since the order impugned has been quashed due to the reason of violation of principles of natural justice, it goes without saying that University would be at liberty to pass an order afresh provided opportunity of hearing is given to the petitioner.

(Rakesh Kumar, J)

NKS/-

AFR/NAFR	
CAV DATE	
Uploading Date	13-05-2016
Transmission Date	