

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7242 of 2013

=====

1. Mangal Mahto Son Of Late Jaga Mahto Resident Of Village- Kashbehar, P.S.-
Tajpur, District- Samastipur

.... Petitioner/s

Versus

1. The State Of Bihar Through Director, Higher Education Bihar, Patna
2. The Joint Secretary, Government Of Bihar, Patna
3. The Vice-Chancellor, Lalit Narayan Mithila University Kameshwar Nagar,
Darbhanga
4. The Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga
5. The Finance Officer, Lalit Narayan Mithila University Kameshwar Nagar,
Darbhanga
6. The Assistant Registrar, Lalit Narayan Mithila University, Kameshwar Nagar,
Darbhanga
7. The Kulanushashak, Lalit Narayan Mithila University Kameshwar Nagar,
Darbhanga
8. The Principal, Dr. L.K.V.D. College, Tajpur, Samastipur

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar, Advocate.
For the State : Mr. A.R. Pandey, AAG 5
Mr. S.S. Tiwary, AC to AAG 5
For the University : Mr. Ajay Bihari Sinha, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 27-07-2016

Heard learned counsel for the petitioner and learned
counsel for the State as well as University.

Primary question has been raised that petitioner has
wrongly been deprived from being promoted from Class IV to
Class III and made a prayer for quashing the University Memo
No.14122-56/12 dated 21.9.2012 issued under the signature of
Registrar, Lalit Narayan Mithila University Kameshwar Nagar

Darbhanga.

An interlocutory application has been filed vide I.A. No. 5935 of 2016 whereby the petitioner has challenged the speaking order dated 23.6.2016 issued under the signature of the Registrar of the University thereby claim of the petitioner for promotion to the post of 3rd grade (L.D.C.) has been rejected.

Learned counsel for the petitioner has primarily attacked on the ground that petitioner has entered into service and at that time his qualification was intermediate, claimed that he has wrongly been deprived of the benefit of promotion. It has been submitted, vide notification no. 7443 Patna dated 30th June, 2011 15% posts have kept been reserved for promotion from group D to group C. As class IV employees are treated to be in group D in view of such circular he should have been considered for promotion to group C. Through interlocutory application it has been stated that there was strike of the employees of the University which continued for a long period. Ultimately the State Government and the Employees Union entered into an agreement and decided that Rule and Regulation governing the service condition of the employees of the State Government will be applicable to the employees of the University and on that strength it has been argued that for the Government employees

there is provision for promotion from group D to group C. The employees of the University and Colleges are equally entitled for the same benefit of promotion keeping in mind 15% posts has been kept reserved for promotion for group D employees.

The University has taken a plea that for promotion to group C minimum qualification is required to be graduate which the petitioner does not possess. Even presuming the Rule of the State Government is applicable, in view of the fact that petitioner does not have minimum qualification of graduation he cannot be considered for promotion in group C. Petitioner has brought certain orders has attached with the interlocutory application where one Gita Devi has been appointed in Class III who possesses minimum qualification of intermediate, on that strength counsel for the petitioner submits that plea that has been taken by the University that only person being graduate can enter into service in Grade III is completely wrong. Two aspects have not been taken into consideration first whether Rule governing service condition of the employees of the State Government is applicable to the employees of the University and also minimum qualification for entering into group C service. On consideration of the material fact and the concerned Rule and Regulation, if the Vice Chancellor arrives to a conclusion that if qualification of

intermediate is prescribed for appointment in Grade III post then certainly petitioner is entitled for promotion to Grade III post including arrears of pay and other consequential benefit with respect to retiral dues from the due date.

For convenience, the petitioner is directed to file a detailed representation before the Vice Chancellor of the Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga annexing all documents in support of his contention including this order, the Vice Chancellor of the said University will dispose of the representation within a period of three months from the date of its filing.

In such view of the matter, the speaking order dated 23.6.2016 passed by the Registrar is set aside and this writ petition is allowed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	1.8.2016
Transmission Date	NA