

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.348 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 34 of 2014**

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Most Nasima, wife of late Ma Gaffar Ansari @ Ma Gaffar, Resident of Village-
Narga Bazar, P.O. - Champa Nagar, P.S. - Nath Nagar, District - Bhagalpur

.... Appellant/s

Versus

1. The Vice Chancellor, T.M. Bhagalpur University , Bhagalpur
2. The Registrar, T.M. Bhagalpur University, Bhagalpur
3. The Principle, S.M. College, Bhagalpur
4. The Vice Chancellor, L.N. Mithila University, Darbhanga
5. The Registrar, L.N. Mithila University, Darbhanga
6. The Principal, R.K. College, Madhubani
7. The Finance Officer, L.N. Mithila University, Darbhanga

.... Respondent/s

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Appearance :

For the Appellant : Mr. Rajendra Nath Sinha, Advocate

For the University : Mr. Amarendra Kumar, Advocate

Mr. Suryakant Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 06-04-2017

Delay in filing of the appeal is condoned. I.A. No. 1443
of 2016 stands allowed.

2. Most. Nasima, wife of the deceased appellant, is
permitted to be substituted the appellant. I.A. No. 1357 of 2017 stands
allowed.

3. Husband of the appellant was initially appointed on
02.04.1984 in S.M. College, Bhagalpur. Thereafter, he was appointed
in R.K. College, Madhubani with effect from the year 1996 and



retired from R.K. College, Madhubani on 31st of July, 2009 on attaining the age of superannuation. However, while fixing his pension as the period of service rendered by him in S.M. College, Bhagalpur between 02.04.1984 to 06.11.1996 was not counted for grant of pensionary benefit, the writ petition in question was filed and on examining various aspects of the matter it has been found that the initial appointment of the husband of the appellant on 02.04.1984 in S.M. College, Bhagalpur was an *ad hoc* arrangement, it was not done in accordance to the rules applicable for appointment to the service in question and, therefore, the period of service rendered in the said Institute has not been counted for grant of pensionary benefits.

4. Except for contending that husband of the appellant was appointed in S.M.College, Bhagalpur on a vacant post sanctioned by the Government, there is nothing available on record to show that the appointment of husband of the appellant in S.M. College, Bhagalpur in the year 1984 was after following the due process of law or a process known to law for appointment to public service and if taking note of the aforesaid period only to be an *ad hoc* arrangement learned Writ Court has refused to grant the benefit of counting the aforesaid service for pensionary benefit, we see no reason to make any indulgence into the matter. Husband of the appellant would be entitled to count the service rendered by him in S.M. College, Bhagalpur for



grant of pensionary benefit only if he is shown to have been appointed in the aforesaid Institute in the year 1984 after following a process known to law and that being not established by the appellant we find no reason to make any indulgence into the matter.

5. The Letters Patent Appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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