

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 9388 of 2004

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Upendra Nath Jha Son of Late Yoganand Jha, resident of near Electricity Office,
Dharamganj, P.S.-Sadar, District and Town-Kishanganj.

.... Petitioner/s

Versus

1. B.N.Mandal University, Laloonaagar, Madhepura through its registrar.
2. Vice Chancellor, B.N. Mandal University, Laloonaagar, Madhepura.
3. Registrar, B.N. Mandal University, Laloonaagar, Madhepura.
4. Principal, Marwari College, Kishanganj.
5. Praveer Krishna Sinha, Son of not known, presently deputed at Examination Department, B.N. Mandal University, Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Madhav Roy, Mr. Navin Kumar and Ms. Kanti Jha, Advocates
For the B. N. Mandal University (For Respondents No. 1, 2 and 3)	:	Mr. Mithlesh Kumar Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 03-03-2017

Heard learned counsel for the petitioner and B. N.
Mandal University.

The petitioner had initially moved the Court being
aggrieved by the notification dated 18.06.2004 by which the
respondent no. 5 had been transferred and posted as Head Assistant
in Marwari College, Kishanganj, where the petitioner was working.

Learned counsel for the petitioner submitted that at
the relevant time, since the cadre of clerk was limited to the
concerned college and not a University cadre, the posting of
respondent no. 5 on the post was not valid as the petitioner being the



senior most person was rightfully entitled to be promoted and posted on such post. Learned counsel submitted that the matter was referred to a Full Bench, along with another case, on the point as to whether the ministerial staff of one constituent college can be transferred to another constituent college and whether the Vice Chancellor has power to make such transfer. Learned counsel submitted that the Full Bench has disposed off the matter by order dated 28.01.2016 holding that the reference has become practically infructuous in view of the notification dated 04.03.2013, by which the Statute has been amended with regard to determination of classification of posts/cadres for the purpose of appointment/promotion of non-teaching employees of the University Offices, Attached Offices, Post Graduate Departments, Institutions and Constituent Colleges of the Universities of the State of Bihar. It was further pointed out that the Full Bench has remanded the present case for consideration in accordance with law with regard to whether the petitioner is entitled to be promoted as head Assistant, Marwari College, Kishanganj.

Learned counsel submitted that in view of such development, the writ petition be disposed off with a direction to respondent no. 2 to dispose off the representation, which was filed on 08.07.2004 after being duly forwarded by the college, copy of



which has been annexed as Annexure-15 to the writ application.

Learned counsel for the B. N. Mandal University does not oppose.

In view of the aforesaid, the writ petition stands disposed off with a direction to the respondent no. 2 to consider the representation filed by the petitioner on 08.07.2004. The Court would like to indicate here that the petitioner may also file a fresh representation within three weeks from today, along with a copy of this order. Upon doing so, the same shall be considered by the respondent no. 2, in accordance with law, after giving opportunity of hearing to the petitioner, if he so desires, and a reasoned order shall be passed within one month thereafter.

It goes without saying that depending upon the order passed by respondent no. 2, consequential benefits, if required to be paid to the petitioner, shall be paid to him within the next six months.

(Ahsanuddin Amanullah, J.)

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