

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.876 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 2682 of 2001**

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1. Rajendra Agriculture University, through its Registrar
2. Vice - Chancellor, Rajendra Agriculture University
3. Director, Administration, Rajendra Agriculture University
4. Director, Sugarcane Research Institute, Rajendra Agriculture University
5. Administrative Officer, Sugarcane Research Institute, Rajendra Agriculture University

.... Appellant/s

Versus

1. Mahendra Rai, S/o late Jaga Rai, resident of village - Saidpur, P.S. Chakmehsi, District - Samastipur
2. Surendra Jha, S/o Kari Jha, resident of village - Bhandersun, P.S. Manigachi, District - Darbhanga
3. Laldhari Rai, S/o Laxman Rai, Counter, Sugarcane Research Institute, Rajendra Agriculture University
4. Ramji Mahto S/o Ram Tahal Mahto, Mobile Worker Sugarcane Research Institute, Rajendra Agriculture University
5. Maheshwar Prasad Mobile Worker, Laiser Nirodh Yojna, Manjholia, Under Sugarcane Research Institute, Rajendra Agriculture University, all Pusa, P.S. Pusa, District - Samastipur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Chandra Mohan Singh, Advocate
For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-05-2017

Delay in filing of the appeal is condoned. I.A. No. 4597 of 2014 stands allowed.

2. Seeking exception to an order dated 18.04.2013 passed by the learned Writ Court in C.W.J.C. No. 2682 of 2001 the respondent University in the writ petition has filed this appeal under



clause 10 of the Letters Patent.

3. From the facts that have come on record, it is seen that the original petitioners in the writ petition and various other private respondents therein were all appointed to Class-IV post. After their initial appointment during a period of time and finding the juniors to have been promoted without considering the case of the senior petitioners, earlier a writ petition was filed and the writ petition was disposed of directing the University to take action in the matter. In fact, the writ petition earlier filed was disposed of on 17.04.2008 and the following orders were passed in the said writ petition:-

“Having heard counsel for the parties at some length this Court feels that everything is not fair in the promotion of Class-IV employee in Rajendra Agricultural University and its Sugar Cane Research Institute. Though in the impugned order passed by the Director Administration, it has been claimed that the post of Peon does not have a cadre leading to the promotion to the post of Laboratory Assistant the earlier decision of the University giving such promotion to respondent nos. 6, 7 and 8 as well as to Jivanath Jha and Kewal Mahto would go to show that such stand taken in the present counter affidavit is not correct. The specific assertion of the petitioner is that the aforementioned five persons were given promotion without holding any limited departmental merit test has not been controverted in



the counter affidavit, but in the impugned order it has been mentioned that none of senior of the petitioner have been promoted without appearing in the limited departmental merit test and getting selected therein. Thus a total inconsistent stand on behalf of the University in its counter affidavit with the earlier order of promotion to at least the aforementioned five persons cannot be reconciled by this Court.”

4. Thereafter, the learned Writ Court examined the matter again and came to the conclusion that there cannot be different rules of promotion for different person on different occasion. It is found by the Writ Court after examining various documents that consistency is the hallmark and integral part of rule of law and finding there to be total violation of the rule of law in granting promotion to juniors ignoring the claim of the petitioners, the directions in question have been issued directing the University to re-examine the matter.

5. Admittedly, the University during the course of hearing stated that it is the case of three employees who were found to have been promoted, the promotion has been cancelled but on going through the detailed order passed by the learned Writ Court, we find that various juniors were granted promotion, and, therefore, the direction issued in the writ petition is that the Vice Chancellor shall



consider the claim of the petitioners and grant them promotion from the date their juniors were promoted.

6. We find the learned Writ Court to have taken action for remanding the matter back and directing the Vice Chancellor to consider the matter after being satisfied with regard to various acts committed by the University which resulted in two of the petitioners being denied their promotion in comparison to their juniors. This being an admitted position, we find no error in the order passed by the learned Writ Court directing the Vice Chancellor of the University to re-examine the matter.

7. The Letters Patent Appeal being devoid of merit stands dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

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