

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1661 of 2016

IN

Civil Writ Jurisdiction Case No. 9450 of 2013

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Bishwa Mohan Kumar, Son Of Sri Bachan Singh, at present posted as Office Assistant in Raj Narayan College, Hajipur, District- Vaishali

.... Appellant/s

Versus

1. The University Of Bihar through Registrar, BRA Bihar University, Muzaffarpur.
2. The Vice-Chancellor, B.R.A. Bihar University, Muzaffarpur
3. The Principal, Raj Narayan College, Hajipur, District- Vaishali
4. The State Of Bihar through Principal Secretary, Education Department, Government of Bihar, Patna
5. The Director, Higher Education, Education Department, Government of Bihar, Patna
6. The Secretary, Higher Education, Education Department, Government of Bihar, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. P.K. Shahi, Sr.Adv.

Mr. Shashi Bhushan Kumar, Adv.

For the Respondent/s : Mr. PANKAJ KUMAR- SC12

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 12-12-2017

Heard learned senior counsel for the appellant as well as counsel for the State.



The order under challenge is dated 05.08.2016 passed by the learned Single Judge who has dismissed the writ application of the petitioner/appellant on the ground that shifting of his date of appointment or regularization cannot be entertained after delay of 16 years. Laches and lapses are being writ large on the face.

From further perusal of the records it is evident that the appellant could not have been accommodated on substantive basis on the post of Routine Clerk prior to 1st December, 1996 because there was no vacancy. Vacancy only arose after retirement of one Jay Mangal Prasad. The University passed the office order dated 20th January, 1997 in deference to the observation given by the Division Bench in the earlier writ application of the appellant which was CWJC No.2731 of 1987. The Court is of the opinion that the appellant had been lucky to have got substantive appointment on a vacant sanctioned post which has its own significance for him after superannuation.

Obviously that status does not satisfy the appellant because his eye is on the bigger pie or cake by shifting his date of appointment so that he can derive maximum benefit of pension etc. on extended length of service which is not possible.

No interference is warranted with the order of the learned Single Judge as there is no infirmity has been found.



Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.12.2017
Transmission Date	

