IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1703 of 2013
IN
Civil Writ Jurisdiction Case No. 3292 of 2010

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Manoj Kumar S/o Shri Sharda Charan Shrivastava, Technical Assistant, Department Of Physics, Faculty Of Basic Science & Humanities, Rajendra Agricultural University, Bihar, Pusa, Samastipur.

.... Appellant/s

Versus

1. The Rajendra Agricultural University through Its Registrar Having Office at Pusa District- Samastipur.
2. The Vice- Chancellor, Rajendra Agricultural University, Pusa, District- Samastipur.
3. The Director Administration, Rajendra Agricultural University, Pusa, District- Samastipur.
4. The Indian Council Of Agricultural Research Through Its Secretary Having Office At Krishi Bhawan, New Delhi.
5. The State Of Bihar Through Agricultural Producation Commissioner Now Designated As Principal Secretary Department Of Agriculture, Government Of Bihar, New Secretariat, Bailey Road, Patna.

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Vijay Shankar Shrivastava
For the Respondent/s : Dr A.K.Upadhayay, SC 2

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)
Date: 27-03-2017

The appellant was the petitioner before the Writ Court. He filed the writ application because his claim for grant of pay scale of a teacher was rejected by the Vice Chancellor of Rajendra Agricultural University, Bihar. The said order was dated 12.9.2009 and was annexed as Annexure- 15 to the writ application.

2. The appellant was holding the post of a Technical

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Assistant with a particular pay scale. He claimed himself to be at par with a teacher and demanded UGC pay scale of a teacher. The Vice Chancellor of the University considered the matter and held that the claim so made by the appellant was totally misplaced. The status and post is governed by a set of statute and the definition and the requirements for different kinds of posts are very clearly laid down. After considering the service history of the appellant, a conclusion was reached that the appellant was holding a purely non-teaching post right from the time of his appointment and he never came to be promoted on the post of a teacher by any mechanism or exercise.

3. The order dated 12.9.2009 was the subject matter of challenge in the writ application. Detailed arguments were made from both the sides trying to demonstrate that the appellant, who was holder of the post was equivalent to a teacher, therefore, demand of a pay scale prescribed by the UGC was not unreasonable or misplaced kind of prayer.

4. A very detailed consideration was made by learned Single Judge keeping in mind the statute as well as a previous effort made by the appellant to beget similar kind of relief, which came to be negated by the High Court as well as the correctness or otherwise of the decision of the Vice Chancellor, which became a subject matter of challenge second time over.

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5. An effort was made on behalf of the appellant to point out a loophole to the rationale and reasoning, which was provided by the learned Single Judge in rejecting the prayer of the appellant, on the ground that a mistake has been committed by the learned Single Judge because the relevant statute is not 14.1 (a) of the Rajendra Agricultural University statute but 14.1 (b), which provides for such promotions and status.

6. Such a submission made on behalf of the appellant is a desperate effort on his part to somehow succeed but the Court does not appreciate such an effort because the statute 14.1 (b) only talks of an opportunity to such non- teaching cadre employees to get promoted to the teaching cadre but that has to be achieved by following a procedure and that too against a quota of 5% fixed by the statute i.e. 14.1 (b). The detailed discussion of the impugned order does not indicate that the present appellant at any point of time participated or succeeded against such quota and, therefore, a self declaration that he should be treated as a teacher because of the nature of work he was doing cannot form the basis for any declaration in his favour by interfering with the impugned order of the learned Single Judge.

7. The Court comes to a considered opinion that the learned Single Judge has given a patient consideration to all the submissions but the necessary ingredients not being available or in

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conformity with the statute, which can give the appellant the status of a teacher, the learned Single Judge rightly dismissed the writ application and refused to interfere with Annexure- 15, which was the subject matter of challenge in the writ application.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.3.2017
Transmission Date	NA

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