

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21872 of 2012

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Shyam Chandra Jha, S/O Late Ram Prasad Jha, resident of Village-
Bhawanipur, P.S.- Sakari, District- Madhubani.

.... Petitioner

Versus

1. The State of Bihar.
2. The Director, Higher Education, Government of Bihar, Patna.
3. The Vice-Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
4. The Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
5. The Finance Officer, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
6. The Principal, R.K. College, Madhubani.
7. Sri Kapileshwar Lal Karn, S/O not known to the Petitioner, presently retired as Store-Keeper from Marwari College, Darbhanga.

.... Respondents

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Appearance :

For the Petitioner : Mr. Shashi Bhushan Singh, Advocate.
For the University : Mr. Ajay Behari Sinha and Mr. Upendra
Kumar Singh, Advocates.
For the State : Mr. A.C. to A.A.G. 4.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 14-11-2017 Heard learned counsel for the petitioner and learned
counsel for the respondents.

The following reliefs have been sought for by the
petitioner in the present writ application.

“1(i) For issuance of an appropriate writ in the nature of certiorari for quashing that part of Letter contained in Memo No. 6680/2012 dated 10.04.2012 (Annexure-18) by which the respondent no. 7 has been



granted promotion to the post of Head Clerk (Gen) w.e.f. 01.01.2006 ignoring the fact that he was initially appointed as Storekeeper (Chemistry) and hence his inability was considered and earlier vide Memo No. 5027-29/C dated 26.03.2001 his promotion to the post of accountant was cancelled.

(ii) For issuance of an appropriate writ in the nature of certiorari for quashing that part of order dated 24.01.2012 contained in Letter No. 342 of 12 by which without issuance of any notice the authority having slash down the scale entire dues amount payable to the petitioner has been adjusted and direction has been given for recovery of the rest amount from paid amount.

(iii) For issuance of an appropriate writ in the nature of Mandamus commanding and directing the respondent authority to consider and grant promotion to the petitioner either to the post of Sectional Officer (General)/Accountant w.e.f. 01.01.2006 and to pay consequential benefit thereupon as from year 1996, the petitioner has been working as accountant under the direction of respondent no. 6 and all the principals in between 1996 till April 2008 recommended for promotion, to said post though he was appointed as Assistant and also for a direction to the respondent to restore his scale of pay as assistant fixed by the Statutory Pay Fixation Committee.”

It is submitted by learned counsel for the petitioner that



the case of the petitioner is squarely covered by the order passed by Hon'ble Supreme Court in Civil Appeal No. 516 of 2013 dated 18.01.2013, reported in 2013(1)PLJR (SC) 233.

Considering the submissions made on behalf of the petitioner, the petitioner is directed to file a representation before the respondent no. 3, The Vice Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga, who shall consider the representation of the petitioner and pass an appropriate order in accordance with law taking into account the aforesaid order passed by the Hon'ble Supreme Court within a period of three months from the date of filing of such representation.

It has further been submitted by learned counsel for the petitioner that the recovery made by the respondents on account of excessive payment made to the petitioner can not be recovered in light of the order passed by the Hon'ble Supreme court in the case of State of Punjab & Ors. Vs. Rafiq Masih & Ors. reported in 2015(4) SCC 334. The respondent no. 3, The Vice Chancellor, Lalit Narayan Mithila University, Kameshwear Nagar, Darbhanga, shall be obliged to look into the grievance of the petitioner and pass an appropriate order and make necessary payment which the petitioner is entitled for.

With the aforesaid observations and directions, the



present writ application stands disposed of.

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(Sudhir Singh, J)

