

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.2024 of 2016
In
Civil Writ Jurisdiction Case No.8639 of 2014

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Upendra Paswan, son of late Laxman Paswan, resident of village, Madapur,
P.S. Pusa, District, Samastipur

... Petitioner... Appellant

Versus

1. The Rajendra Agriculture University Now Presently Dr. Rajendra Prasad Central Agriculture University through its Registrar Pusa Bihar, Samastipur
2. The Vice Chancellor RAU Now presently Dr. RPCAU, Pusa, Samastipur
3. The Director, Administration, RAU Now presently Dr. RPCAU, Pusa, Samastipur
4. The Recruitment Officer, RAU now presently Dr. RPCAU, Pusa, Samastipur

... Respondents ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. A. B. Ojha, Sr. Advocate Mr. Sri Niwas Jha, Mr. Anand Vardhan, Advocates
For the University	:	Mr. Arvind Ujjwal, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date : 17-07-2017

Heard learned counsel for the appellant and Rajendra Agriculture University.

The challenge is to the order dated 07.09.2016 passed in C.W.J.C. No.8639 of 2014 which has been dismissed by a learned Single Judge Bench of this Court.

It is contended on behalf of the appellant that as per the direction of the Apex Court in S.L.P. (c) No.18594/94, 65% of the vacant posts of Class III and IV were to be filled up by absorption of the daily wagers who were working there and 35% was to be filled up by way of direct appointment by advertising



the same. It is contended that appellant, who claimed to have been working as daily wager applied for the post and was selected vide Annexure 4. However, issuance of appointment letter was kept in abeyance in view of the fact that the authorities found that there was some difference in claimed experience certificate and the materials which were available with the competent authority and, accordingly, a notice was issued to the petitioner vide Annexure 6 to which the petitioner replied vide Annexure 7. However, no decision was communicated to him then the petitioner filed the C.W.J.C. No.8639 of 2014 which has been dismissed vide the impugned order holding that, since the Rajendra Agriculture University has now become Central University, the relief cannot be granted.

Mr. A. B. Ojha, learned Sr. counsel appearing for the writ petitioner- appellant, has drawn attention towards Section 42(4) of the Dr. Rajendra Prasad Central Agricultural University Act, 2016, which lays down as under:-

“42(4) Any dispute or litigation, the cause of action for which has arisen between any member of academic staff, teacher, member of Faculty or other employee and the Rajendra Agricultural University before the commencement of this Act shall be instituted, prosecuted or continued between the academic staff, teacher, member of Faculty or other employee and the Rajendra Agricultural University, as if this Act had not been enacted,



and all such cases shall be managed by a special cell to be constituted by the State Government of Bihar and all expenses relating to the management of such cases including any compensation payable to any person thereof shall be borne by the State Government.”

Thus, it is contended, on strength of the aforesaid provision, that the Central University is bound to take a decision in the case of petitioner as if the Central Act had not been enacted. However, there is one difficulty. The aforesaid provision only talks about the dispute with the academic staff, teacher, member of Faculty or other employee of the Rajendra Agricultural University. Section 3(i) defines employee means any person appointed by the University and includes teachers and other staff of the University and the petitioner was admittedly working merely as daily wager. However, this is also a fact that the dispute remained pending and the writ petition was also pending in the meantime the Central Act came into existence. Learned counsel points out that Section 42(1)(c) lays down that all the rights and liability of the Rajendra Agricultural University shall be transferred to and be the rights and liabilities of the University and raised a question as to whether such decision was a liability upon the Central University or not which should have been dealt with by it and communicated to the petitioner as the petitioner contends that despite asking as to



which document shows that there was any difference in experience certificate etc., neither such information was supplied to him nor was any decision communicated

However, in our opinion, this aspect of the matter does not appear to have been raised and, thus, considered by the learned Single Judge Bench of this Court.

Accordingly, this appeal is disposed of granting liberty to the appellant, if so advised, to seek review of the order impugned bringing this issue to the notice of learned Single Judge.

It is made clear that this Court has not formed or expressed any opinion with respect to the applicability of Section 42 of the Act in the case of the appellant rather it has been kept open to be noticed and decided by the learned Single Judge, if such review is preferred by the writ petitioner-appellant.

(Dr. Ravi Ranjan, J)

Sanjay

(S. Kumar, J)

AFR/NAFR	NAFR
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