

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10822 of 2016

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Mukesh Anand, S/o Late Shailendra Kumar Thakur, resident of Gurunanakpura, East of Airport, Bahadurpur, Zero Mile, Sabour, District - Bhagalpur, Presently Posted as Assistant Teacher in Kanya Middle School Gramin Kshetra, Sabour, Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Education, New Secretariat, Patna
3. The Director (Primary Education), New Secretariat, Patna
4. The Regional Deputy Director of Education, Bhagalpur Division, Bhagalpur
5. The District Education officer, Bhagalpur
6. The District Programme officer (Establishment), Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarendra Kumar, Advocate
For the Respondent/s : Mr. Harish Kumar, GP-8

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 03-04-2018

Heard learned counsel for the petitioner and respondents.

2. Petitioner has filed the present writ application for a direction to the respondents to include his name in the seniority list for promotion of B.A./B.Sc. Trained scale in the district of Bhagalpur and grant all consequential benefits.

3. The facts of the case lies in a narrow compass:

The petitioner was appointed in the year 1995 in Matric Trained Scale. The petitioner claimed that after obtaining the due permission from the competent authority, he appeared and obtained the degree of Sahitya Alankar in the year 2006 and on the strength of obtaining Sahitya Alankar degree he joined M.A. course in Nalanda



Open University in the year 2009 and obtained M.A. degree from Nalanda Open University.

4. A dispute arose as to the validity to the degree of Sahitya Alankar obtained from Hindi Vidyapeeth, Deoghar. The decision was rendered by a Co-ordinate Bench of this Court that the degree obtained from Hindi Vidyapeeth, Deoghar is not a valid degree. The matter was taken to the L.P.A. Court and the L.P.A. Court affirmed that decision. Subsequently, in C.W.J.C. No. 240 of 2013, issue was raised as to the higher degree obtained by a person after the degree of Sahitya Alankar. The writ Court declined to grant any relief. The matter was taken to the L.P.A. Court vide L.P.A. No. 11 of 2014. The Division Bench of this Court in L.P.A. No. 11 of 2014 has considered the various aspects of the matter and considering the fact that the petitioner/appellant has not only obtained the degree of Sahitya Alankar from Hindi Vidyapeeth Deoghar, but on the strength of that degree he subsequently joined higher course and obtained M.A. degree. In that case M.A. and Ph.D., which was from a recognized University and considering the aforesaid factual position, the Court held out that the appellant is entitled for consideration of the case of promotion and for all consequential benefits on account of the fact that the petitioner/appellant has obtained higher qualification of M.A. and Ph.D. degree. Similar is the facts situation in the present



writ application where the petitioner after passing Sahitya Alankar has joined M.A. course in Nalanda Open University, which is admittedly a recognized University and after obtaining the Post Graduation from Nalanda Open University he cannot be denied the benefit as held out in L.P.A. No. 11 of 2014.

5. Mr. Harish Kumar, learned counsel for the respondents has placed reliance of another Division Bench Judgment passed in L.P.A. No. 273 of 2015, in which similar view was expressed by another Division Bench.

6. The case of the writ petitioner is squarely covered by the judgment of L.P.A. No. 11 of 2014 and L.P.A. No. 273 of 2015 and as such the writ application is allowed in the light of the Division bench judgment mentioned above.

7. The respondents are hereby directed to workout the consequential benefit, which is admissible to similarly circumstanced or junior to the petitioner within a period of 60 days from today.

8. The writ application is allowed to the extent indicated hereinabove.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.04.2018
Transmission Date	N.A.

