

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No. 19337 of 2016**

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Prabhunath Sah, Son of Laxmi Prasad, Resident of Village- Bareja, Police Station- Daudpur, District- Saran at Chapra.

.... .... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Education Department, Bihar, Patna.
2. Jai Prakash University, Chapra, through its Registrar.
3. The Vice-Chancellor, Jai Prakash University, Chapra.
4. The Registrar, Jai Prakash University, Chapra.
5. B.R.A. Bihar University, Muzaffarpur through its Registrar.
6. The Registrar, B.R.A. Bihar University, Muzaffarpur.
7. The Vice-Chancellor, B.R.A. Bihar University, Muzaffarpur.

.... .... Respondent/s

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**Appearance :**

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|-----------------------------|---|------------------------------------------------|
| For the Petitioner/s        | : | Mr. Shubh Narain Singh, Advocate               |
| For the State               | : | Mr. Ram Vinay Prasad Singh, A.C. to G.A.<br>12 |
| For the J. P. University    | : | Mr. Nagendra Kumar Singh, Advocate             |
| For the B. R. A. University | : | Mr. Vikash Ratan Bharti, Advocate              |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date: 17-02-2018**

Heard learned counsel for the petitioner; State; J.P.

University and B.R.A. Bihar University.

2. The petitioner has moved the Court for the following  
reliefs:

*“1. That this is an application for issuance  
of appropriate writ(s)/direction(s) to the  
respondents for the following reliefs:*

*I. To fix pension of the petitioner since the  
date of his retirement i.e. 31.07.2015 and pay the  
same to him on month to month basis.*

*II. To pay the entire amount of retirement  
benefits to the petitioner with interest i.e. the  
amount of gratuity, earn leave, group insurance  
and P.F., A.C.P. etc.*

*III. And/or for any other relief/reliefs for*



*which petitioner is entitled to in the eye of law.*

3. The petitioner claims to have been appointed as Storekeeper by the Managing Committee of the private college on 17.02.1974 and joined on 08.03.1974. Thereafter, the college was taken over by the Government on 28.02.1981 and became a constituent unit of the then Bihar University, Muzaffapur. In terms of the Government policy, employees appointed prior to 15.08.1976 on sanctioned post, were regularized but in the case of the petitioner, the same was not done. The petitioner moved the Court in C.W.J.C. No. 10847 of 1994 along with others for payment of salary, which was not being made to him and the Court had observed that the matter be first decided by the Vice Chancellor of the University by order dated 28.07.1995. In terms thereof, the Vice Chancellor of the J.P. University passed detailed order on 25.09.1995, rejecting the claim on the ground that the petitioner was not appointed on a post which was ever sanctioned even by the Managing Committee. It was clearly stated that the claim of the petitioner was of being appointed as Storekeeper though no such post was ever sanctioned and even his salary from the limited period 22.04.1976 to October, 1976, was paid against that of Lab Boy, which the petitioner had received after writing 'in protest'. It was further stated that after October 1976, he has not received any salary and, thus, he was not given work



thereafter.

4. It appears that by order dated 03.03.2012, the petitioner was adjusted on the sanctioned vacant post of Library Clerk with effect from 11.08.2010. However, the challenge to the order of the Vice Chancellor dated 25.09.1995 before the Hon'ble Chancellor did not succeed and the J.P. University was only requested to forward the case of the petitioner to the State Government for necessary action regarding regularization of his services against the post of Storekeeper in the concerned college. The same has still not been regularized by the State Government.

5. Learned counsel for the petitioner submitted that he was appointed on the sanctioned post under the staffing pattern and, thus, his services were later on adjusted with effect from 11.08.2010. It was submitted that the staffing pattern having the force of law, the service of the petitioner has to be accepted as valid and the entire period/length of such service has to be paid for by the authorities and also counted for the purposes of post retiral benefits, as he has superannuated on 31.07.2015.

6. Learned counsel for the J.P. University submitted that the order dated 25.09.1995 of the Vice Chancellor of the J.P. University has incorporated factual details which reveal that neither the petitioner was appointed on a sanctioned post nor he got any



salary after October, 1976 and further, that the same was based on actual verification of the documentary evidence, including the Acquittance Roll Register of the college. It was further submitted that only for about six months for which the petitioner has been paid, the same was against the post of Lab Boy, and that too, was received by the petitioner under protest. Learned counsel submitted that the name of the petitioner was wrongly sent by the college shown as working which has led to his name being included in the list of persons whose services have been adjusted on sanctioned vacant posts with effect from 11.08.2010. It was submitted that after the said adjustment also, the petitioner has been paid for various periods where he has worked and even the notification indicates that such adjustment would be valid only after approval of the State Government, which, till date has not been done.

7. Learned counsel for the State submitted that the adjustment of the petitioner in terms of the list prepared by the University has still not been granted and, thus, it has no liability to pay any amount for payment to the petitioner. He further submitted that in view of the materials on record and what has been submitted by learned counsel for the J.P. University, the appointment of the petitioner not being on a sanctioned post, is not fit to be adjusted, much less regularized, for which there cannot be any claim for



payment.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present writ application. As per the own admission of the petitioner in the writ petition, he was appointed on the post of Storekeeper and it has been stated that he was wrongly shown as Lab Boy and his name was sent to the University. Once there is a categorical finding in the order of the Vice Chancellor dated 25.09.1995, that no post of Storekeeper was ever sanctioned by the governing body and five posts of Lab Boy was only sanctioned and the petitioner himself claiming in the writ petition that he was appointed on the post of Storekeeper clearly shows that the post on which he was appointed was never sanctioned. Even for coming under the scope of staffing pattern, the post was required to be sanctioned by the then governing body of the college and once the post on which the petitioner claims to be appointed was never sanctioned, it has to be held that his appointment was never on a post sanctioned even under the staffing pattern. Further, once after October, 1976, he was not paid salary and then him approaching the Court only in the year 1994, also indicates the fact that he had either given up such claim or his claim was stale and suffered from gross delay and laches. Further, even the Hon'ble Chancellor not



interfering and in fact only requesting the J.P. University to forward the matter to the State Government for consideration clearly shows that the claim of the petitioner has not been found sustainable. The petitioner having been shown to be adjusted on the post of Library Clerk, will not confer any right on him for salary and post retiral benefits as financial liability without the prior approval of the State Government cannot be created and that was also stipulated in the order showing him to be adjusted on the post which was subject to approval by the State Government and till date, admittedly such approval has not been granted.

9. For the reasons aforesaid, the writ petition stands dismissed.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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