

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20397 of 2014

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Dr. Abdul Quddoos Ansari, Son of Md. Amiruddin Ansari, Resident of Village-
Pachhatti, P.S.- Bodh Gaya, District- Gaya

.... Petitioner/s

Versus

1. The Magadh University, through its Registrar, Magadh University, Bodh Gaya, Gaya
2. The Vice Chancellor, Magadh University, Bodh Gaya, Gaya
3. The Registrar, Magadh University, Bodh Gaya, Gaya
4. The Head of Department, Ancient Indian and Asian Studies, Magadh University, Bodh Gaya, Gaya
5. The Incharge Promotion Cell, Magadh University, Bodh Gaya, Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Keshari, Advocate

Mr. Krishna Murari Prasad, Advocate

For the Respondent/s : Mr. Shivendra Kishore, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 06-09-2018

Heard learned counsel for the petitioner and
respondents.

2. This writ application has been filed by the petitioner on 03.12.2014. Unfortunately, even approximately after four years, no counter affidavit has been filed.

3. In the present writ application, the claim of the petitioner is for consideration of his case for grant of promotion.

4. Mr. Kesari, learned counsel for the petitioner referring to Annexure-7 submits that in similar circumstance, the writ Court has granted liberty to the petitioner to file representation and on the representation the University has considered and granted



promotion to the similarly circumstanced person.

5. Mr. Shivendra Kishore, learned senior counsel appearing on behalf of University raised objection on the claim of the petitioner, although the University has not filed any counter affidavit. Mr. Shivendra Kishore submitted that under the amended provision of the Universities Act, there exist only post of Assistant Professor, Associate Professor and Professor. The definition of teacher has undergone change and the amendment in the definition of teacher was approved by the Division Bench and even the Hon'ble Supreme Court has not interfered. He submitted that the promotional avenues in the teacher cadre is only available to the Lecturer/Assistant Professor, Reader/Associate Professor and Professor and there is no promotional avenues from the cadre of Curator.

6. Mr. Kishore has lost site of the fact that the amendment was made in the University Act in the year 2012. The amendment was introduced in the backdrop of the fact that after abolition of the post of demonstrator, the Laboratory incharge or Lab. Assistant were redesignated as demonstrator, which led to a lot of controversy and ultimately the definition of teacher was amended and the demonstrators, who were in the category of teacher under the definition of unamended provision were excluded from the definition of teacher. This amendment was introduced w.e.f. October, 1991 and



at that point of time when the petitioner was appointed, the definition of teacher was wide worded and inclusive definition, which includes not only the lecturer, reader and professor, but other category of person imparting instruction and as such the petitioner who was appointed in 1988, prior to the retrospective operation of the amended provision/definition of teacher cannot come within the exclusion clause and as such the University has to consider the case of the petitioner, who was appointed in 1988 as Curator for the purpose of grant of promotion, if the petitioner otherwise fulfils the condition for grant of promotion as reader or professor in accordance with the norms or criteria, which was prevalent at the time the petitioner was appointed as Curator. Necessary decision in this regard must be taken by the respondent University within a maximum period of four months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.09.2018
Transmission Date	

