

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15882 of 2016

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Dr. Anju Kumari Gupta, wife of Dr. Dharam Prakash, R/o Bhagwat Nagar, Kumhrar, P.S.- Agamkuan, District- Patna at Present Working as Associate Professor, Department of Chemistry, A.N. Collage, Patna (Magadh University, Bodh Gaya)

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Education Department, Govt. of Bihar, Patna
2. The Chancellor of Universities of Bihar, Raj Bhawan, Patna.
3. The Magadh University through its Registrar, Bodh Gaya.
4. The Vice-Chancellor, Magadh University, Both Gaya.
5. Dr. Arun Kumar Singh, the Head of Department of Chemistry, Magadh University, Bodh Gaya.
6. Dr. Kalpana Shahi W/o Sri P.N. Shahi R/o Nawal Kishore Road, Kadam Kuan, Patna- 800004, at Present Working as Professor Commerce College, Patna (Magadh University, Bodh Gaya)
7. Dr. Tripti Gangwar W/o Sri Om Prakash Singh R/o K/1 Vivekanand Marg, North S.K. Puri, District- Patna- 800013, at Present Working as Professor A.N. College, Patna (Magadh University)
8. Dr. Afshan Suraiya W/o Mr. Sarfraz R/o White House Compound near M.G.M. College, Gaya- 823001, at Present Working as Professor G.B.M. College Gaya (Magadh University)
9. Dr. Arvind Kumar Nag S/o Late Kamla Prasad Singh R/o West Patel Nagar, Flat No.101, Indu Enclave, P.S.- Shastrinagar, District-Patna at Present working as Professor Commerce Collage, Patna (Magadh University)
10. Dr. Anil Kumar S/o Late Girja Prasad Choudhary R/o Sarswati Bihar Colony, Ambedkar Path, P.O.-B.V. College, P.S.-Rupaspur, District -Patna at working as Professor College of Commerce, Patna (Magadh University)

.... Respondent/s

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Appearance :

For the Petitioner/s	: Mr. Dhruva Mukherjee, Sr. Advocate Mr. Binod Murari Mishra, Advocate
For the Respondent/s	: Mr. KAMESHWAR KUMAR- GP17
For the Chancellor	: Mr. Rajendra Kr. Giri, Advocate
For Resp. no. 6 to 10	: Mr. Pushkar Narain Shahi, Sr. Advocate Mr. Patanjali Rishi, Advocate
For the University	: Mr. Ritesh Kumar No.1, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 10-04-2018

Heard learned counsel for the petitioner, University,
State, as well as the learned counsel on behalf of the Hon'ble



Chancellor.

2. The petitioner has filed the present writ application for a direction to the respondents for quashing of the order contained in notification no. PC/634/2016 dated 06.03.2016 (Ammexire-11). whereby the respondent no 6 to 10 have been promoted from the post of Associate Professor to the post of University Professor in Magadh University.

3. Many folds submissions have been advanced by Mr. Dhurba Mukharjee, learned senior counsel appearing on behalf of the petitioner, but in view of the order that the Courts proposes to pass, there is no necessity to enter into the issue raised by the learned counsel for the petitioner.

4. Under the Career Advancement Scheme, the Magadh University considered the case of all the eligible Associate Professor for grant of promotion to the post of Professor. In this process of selection and promotion petitioner and certain other Associate Professor were ignored and respondent nos. 6 to 10 have been granted promotion.

5. While the petitioner has filed the present writ application, certain aggrieved persons have approached the Hon'ble Chancellor and the Hon'ble Chancellor after considering the entire facts and circumstances held out as follows:



“In view of the fact, that the articles/publications, examined by the subject expert and recommended to the petitioners for promotion, would not be ignored unless and until any material defect or infirmity found in the report of experts. Under such circumstances the decision of the selection committee without giving any reason through a speaking order as to why they rejected the recommendation of experts, is not just and fair and would not be approved.

Considering the facts and circumstances discussed above, there is patent error in the report of Seven Members Selection Committee and, therefore appeals are hereby allowed. The University is directed to consider the cases of the Appellants for promotion afresh within the period of two months from the date of this order.”

6. Mr. Dhruba Mukherjee submits that in view of the decision passed by the Hon'ble Chancellor the writ application may be disposed of with similar directions to the University to consider the case of the petitioner for grant of promotion to the post of Professor. Mr. P. N. Shahi, learned counsel appearing on behalf of respondent nos. 6 to 10 submits that he has no objection in consideration of the case of the petitioner afresh in accordance with the direction issued by the Hon'ble Chancellor as promotion under Career Advancement



Scheme, which may not adversely affect any person.

7. In view of the above, the Court deem it fit and prepare to direct the University to consider afresh the case of the petitioner for grant of promotion under Career Advancement Scheme in the light of the observations made by the Hon'ble Chancellor in the case of Usha Prasad and others vs. Magadh University and others, decided on 08.06.2017.

8. It is needless to state here that while deciding the case of the petitioner afresh, the University will not look into the previous record for deciding the case of the petitioner for promotion. It is also clarified that while considering the case of the petitioner the University will not re-open the case of the person already granted promotion under the Career Advancement Scheme including respondent nos. 6 to 10.

9. In case, on reconsideration in terms of the direction of the Hon'ble Chancellor in the cases mentioned hereinabove, the University is also required to workout the consequential benefits, which accrued to the petitioner. The entire exercise in this regard must be completed by the respondent University within a maximum period of three months from the date of receipt/production of a copy of this



order.

10. Mr. Mukherjee, learned counsel for the petitioner informs that in terms of the direction of the Hon'ble Chancellor, the University reconsidered the case of the appellant before the Hon'ble Chancellor and they have been granted the benefit and a notification was also issued by the university.

11. In view of the above the writ application is disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.04.2018
Transmission Date	

