

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17297 of 2008

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1. Manoj Kumar Singh, son of Sri Rajendra Singh, Resident of Village- Rasalpur, P.O. Manpur, P.S. Muffassil Gaya, District- Gaya
 2. Pawan Kumar Singh @ Pawan Kumar, son of Sri Ram Sewak Singh, Resident of village Piyaria, P.O. Allawalpur, P.S. Gauri Chak, Dist. Patna

At present both the petitioners are working as Office Assistant in Mahilla College, Dalmiya Nagar, P.S. Dehri-on-sone, District- Rohtas at Sasaram

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Development Department, Bihar, Patna
3. The Veer Kunwar Singh University, Arra, through its Registrar
4. The Vice Chancellor, Veer Kunwar Singh University, Arra
5. The Registrar, Veer Kunwar Singh University, Arra
6. The Finance Officer of Veer Kunwar Singh University, Arra
7. The Principal, Mahilla College, Dalmiya Nagar, P.S. Dehri-on-sone, District- Rohtas at Sasaram

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Prasad Singh, Sr. Advocate Mr. Mukesh Kumar Singh, Advocate
For the State	:	Mr. Deepak Sahay Jamuar, AC to AAG-4
For the University	:	Mr. Rajesh Prasad Choudhary, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 06-09-2018

Heard learned counsel for the petitioners and learned counsel appearing on behalf of the State as well as the University.

2. The petitioners claim that they were appointed in the erstwhile affiliated college, which was made constituent unit of the Magadh University in the 4th phase. Subsequently, the University was bifurcated and the college in question came within the territorial jurisdiction of Veer Kunwar Singh University.



3. The matter of absorption of teaching and non-teaching employees met with a lot of litigation and the Apex Court finally decided the issue of absorption under Section 4 (1) (14) of the Bihar Universities Act in the case of **State of Bihar Vs. Bihar Rajya MSESKK Mahasangh: (2005) 9 SCC 129**. The Apex Court issued direction to the concerned University to take decision of absorption of teaching and non-teaching employees in the light of the recommendation of Justice S.C. Agrawal Commission and the discussions made in the judgment in the Mahasangh's case. Pursuant to that decision of the Apex Court actions were taken by the concerned University and the notification of absorption was issued. Subsequently, another round of litigation started on the issue of notification of genuine teaching and non-teaching employees entitled to absorption in terms of the judgment in the case of Mahasangh. The matter was taken to the Apex Court after the Full Bench judgment of the Patna High Court in Krishnandan Yadav's case. Once again the Apex Court transmitted the matter to Justice S.C.Agrawal Commission who declined to carry on the obligation of identifying the persons entitled to absorption in terms of the previous judgment on the anvil of Justice S.C. Agrawal Commission and thereafter the Apex Court appointed Justice S.B.Sinha Commission to examine the issue and submit report.



After the report of Justice S.B.Sinha Commission the case was finally decided by the Apex Court and it was held out that the favourable report of Justice S.B.Sinha is accepted and the respondents were directed to act upon the favourable direction of the S.B.Sinha Commission. Those who were aggrieved by the report they were granted liberty to approach the High Court for redressal of their grievances. Pursuant to the liberty granted by the Apex Court in Krishnandan Yadav's case, this Court has occasion to examine various aspects of the regularization of teaching and non-teaching employees of 4th phase colleges and finally the case was decided on 17.07.2018 in CWJC No. 17670 of 2017. This Court has considered various aspects including the report of Justice S.C.Agrawal Commission, judgment of the Apex Court in Mahasangh case, the report of Justice S.B.Sinha Commission as well as the judgment of the Apex Court in Krishnandan Yadav's case and held out that those non-teaching employees who were declared as eligible by Justice S.C. Agrawal Commission and whose name find place in the list of the letter No. 25 C or similar such Government letter identifying non-teaching employees for provisional absorption and also the report of Justice S.B.Sinha Commission wherein it was held that those non-teaching employees who were appointed against the post prior to



conversion of the college as constituent unit, their cases should be considered for absorption if the posts are available today and at the time of appointment they were holding requisite qualification. In view of the above, the respondents have to consider the case of the petitioners for absorption and take appropriate decision. While taking decision, the respondents are also required to see whether the persons junior to the petitioners have been appointed in the then affiliated college, have been extended the benefit of absorption. In case any junior has been considered, the respondent-University is required to consider the case of the petitioners positively. Final decision in this regard must be taken by the respondents within a maximum period of four months from the date of receipt/production of a copy of this order

4. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.09.2018
Transmission Date	

