

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8673 of 2011

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Shashi Thakur Wife of Sri Binod Prasad Thakur Resident of Village- Harri,
P.O.+P.S.- Sursand, District-Sitamarhi, At Present residing Near West
Lohanipur, P.S. Kadamkuan, District- Patna. Petitioner/s

Versus

1. Patna University through its Registrar, Patna.
 2. The Vice Chancellor, Patna University, Patna.
 3. The Principal, Magadh Mahila College, Patna District Patna.
 4. The Head of Department, Home Science, Magadh Mahila College, Patna.
 5. The State of Bihar through Principal Secretary, Human Resources
Department, Govt. of Bihar, Patna. Respondent/s
- =====

Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar Mrs. Ritika Rani Mr. Vijay Kr. Vimal
For the Respondent/s	:	Mr. Digvijay Singh Mr. B.J. Jha, AC to AG

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

7 07-12-2018 From the material available on record, it appears that Patna University has become a place for accommodating people of blue eyed of big sorts. There is no norm, rules and law for accommodating the people having push and pull. Law hardly matters in the decision making process in the Patna University.

Various complaints are on the record which indicates that out of those persons have been appointed and regularized without following any selection process even in the case of respondent no.6 who was made Storekeeper in the college while pursuing study in the college and the petitioner's service was dispensed with retrospective effect on 31.7.2011. The order was issued on 8.5.2012 vide Annexure-7 and service of the petitioner was dispensed with retrospectively with effect



from 30.8.2011. The retrospective termination is unknown to the service jurisprudence.

Under the aforesaid circumstances, the order contained in Annexue-7 whereby the service of the petitioner has been dispensed with with retrospective effect i.e. 30.8.2011 cannot sustain and it is accordingly quashed.

The respondent University is directed to consider the case of the petitioner on the same line as University has considered the case of the Dr. Sudhakar Prasad Singh and Sweety Wadhwa as University is State within the meaning of Article 12 of the Constitution of India and State is not allowed to adopt discrimination to its citizen. The respondents have to adopt one and the same yardsticks in the matter of absorption and termination. They cannot adopt different yardsticks. The respondents in the peculiar facts of the case are directed to take appropriate decision with regard to payment of the consequential benefits on quashing of Annexure-7.

Learned counsel appearing on behalf of the State has submitted with reference to para-7 and 8 of the counter affidavit.

For ready reference para-7 and 8 is quoted below:-

“7. That the petitioner not performing her duties efficiently and the



then Head of the Department of the Department of Home Science had reported against her verbally, many times and finally vide letter dated 06.05.2010 to the Principal, MMC.

8. That on merely humanitarian ground the petitioner was shifted to the office of MMC vide memo no. 30-31 dated 31.05.2010 by the Principal, MMC.”

The Under Secretary, Department of Education has very conveniently made statement in para-7 and 8 that the State Government came out with a resolution dated 10.5.2005 where it has been decided that for grade-III and grade-IV staff appointed prior to 11.12.1990 as daily wages are eligible for absorption/regularization and against the vacant sanctioned post and those who are appointed after the said cut off date are liable to be terminated.

The Court is of the considered view that the policy decision are meant for uniform application, it is not designed to discriminate the employee in the matter of absorption/regularization. If the cut off date is 11.12.1990 then in that situation any employee appointed after 11.12.1990 are not eligible for regularization and absorption and the State is under obligation to see that no one is favoured with absorption and regularization in any of the University including the Patna



University who has made appointment after 11.12.1990. They are also required to see that the appointment have been made against the sanctioned post are only eligible for consideration and whosoever is responsible in the matter of absorption/regularization of the employee appointed on class-III and IV posts or any other post in the University after 11.12.1990 are not eligible for absorption and regularization in the event any such appointment made and regularized, the State is required to invoke jurisdiction under Public Demands Recovery Act against all responsible officers of the Patna University for making appointment or regularization of any employee after 11.12.1990.

The University and State is required to act accordingly.

Necessary decision in this regard may be taken within a period of four months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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