

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19392 of 2014

=====

Uday Kant Jha Son of Late Surati Jha, Resident of Village & P.O.-Dhakjari,
P.S.-Arer, District-Madhubani, Presentlfy retired as an office Assistant on the
pay scale of Routine Clerk.

... .. Petitioner/s

Versus

1. The Principal Secretary of The Higher Education Govt. of Bihar, Patna.
2. The Lalit Narayan Mithila University Kameshwar Nagar, Darbhanga through
its Vice-Chancellor of L.N.M.U. Darbhanga.
3. The Pro Vice-Chancellor of Lalit Narayan Mithila University Kameshwar
Nagar, Darbhanga.
4. The Registrar Lalit Narayan Mithila University Kameshwar Nagar,
Darbhanga.
5. The Promotion Committee, Lalit Narayan Mithila University Kameshwar
Nagar, Darbhanga.
6. The Finance Officer, Lalit Narayan Mithila University Kameshwar Nagar,
Darbhanga.
7. The Finance Advisory Committe, Lalit Narayan Mithila University
Kameshwar Nagar, Darbhanga.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Ranjit Jha, Advocate
For the Respondent/s	:	Nutan Sahay, AC to AAG-12
For LNMU	:	Mr. Chandra Mohan Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 18-08-2018 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

Earlier the petitioner has moved this court in
C.W.J.C. No. 5351 of 2005. The aforesaid writ application was
disposed of on 09.03.2011. The order dated 09.03.2011 is
quoted below:-

**“Nobody appears either on behalf of the
petitioner or for the University.**

Counsel for the University was granted time



so that the Registrar and the Vice Chancellor of the Lalit Narayan Mithila University could consider the case of the petitioner for the purposes of promoting him to the post of the Office Assistant from 13.05.1981. No counter affidavit has been filed.

I accordingly direct that the Vice Chancellor of the Lalit Narayan Mithila University should take a decision with respect to the petitioner within a period of four weeks from the date of receipt/production of a copy of this order.”

After the order dated 9.3.2011 the petitioner filed contempt application which was also disposed of. Thereafter, the petitioner has filed C.W.J.C. No. 1404 of 2012 for a direction the respondents to consider his case for promotion as Office Assistant and grant him scale and pay the monetary benefit thereof. The writ petition was disposed of on 23.1.2012. The order dated 23.1.2012 is quoted below:-

“In this writ application petitioner has prayed for a direction to the respondents to consider his case for promotion as Office Assistant, grant him scale and pay the monetary benefit thereof.

From Annexure-8 and 9 it appears that the petitioner had moved this Court for the same relief and his writ application was disposed of with a direction to the University to take a final decision



in the matter within a period of four weeks. Thereafter the petitioner filed contempt application also. It was submitted that all the claims of the petitioner was accepted by the University but he is not getting benefit of the same. Hence, his contempt application was disposed of with liberty to him to challenge the matter before an appropriate forum. The grievance of the petitioner is that no action has been taken by the University so far in the matter in spite of the said orders of this Court.

Learned counsel for the University submits that probably the University may not be aware of the order passed in the contempt application of the petitioner as the same was passed on 30.11.2011.

Be that as it may, since this Court granted indulgence to the petitioner earlier, it will be appropriate for the University to consider the case of the petitioner and pass specific orders in respect of his claim within a fixed time frame. For this purpose, petitioner will file a representation within four weeks before the Vice-Chancellor enclosing all materials on the basis of which he claims the promotion and grant of monetary benefits thereof which must be considered and final orders must be passed on the same in accordance with law by the Vice-Chancellor positively within two months from the date of filing of the representation.”

After the order dated 23.1.2012, the Vice-Chancellor of the University considered the claim of the petitioner and



passed reasoned and speaking order on 4.4.2012 which is quoted below:-

i. The petitioner was appointed in class-IV as “Compositor” which is strictly a technical post.

ii. His representation is lawful only against a technical post in the cadre, if he has required qualification.

iii. The promotion of the petitioner to the post of “Job Clerk”, was also not lawful as it was an unsanctioned post. Under sec.35 of the Bihar States Universities act 1976 as amended up to the date but his work as job clerk was satisfactory in L.N.M.U. press Darbhanga.

iv. However, seeing the long period of his working as “Job Clerk” he was not reverted back to the post of “Compositor” keeping in view the above mentioned facts.

v. The promotion of the petitioner to the post of Assistant was not genuine and proper because he was holding and performing the technical work in the LNMU press even after change of promotional nomenclature of the post from Job Clerk to the post of R.C. in the same scale of pay.

vi. The petitioner was already getting the pay- scale of “Job Clerk” which is the same as meant for routine, clerk thus he had not earned any pecuniary loss.

Learned counsel for the petitioner submits that the



order contained in Annexure-10 is in teeth of Annexure-5. Annexure-5 is the office order whereby 45 persons were granted promotion as Assistant. From the perusal of Annexure- 8 and 9 it is apparent that the said order was never acted upon and that is why the petitioner has filed the two writ applications referred to above.

Vide Annexure-10 the Vice-Chancellor has assigned the reason for non-consideration of the case of the petitioner as the petitioner belongs to technical cadre whereas the employees whose name figures in Annexure-5 belong to the non-technical cadre for which promotion avenue was available to the post of Assistant.

The Vice-Chancellor on consideration of entire facts and circumstances and also considering the hardship of the petitioner held out that although the pose of Job Clerk or Routine Clerk is not available for promotion to the persons belonging to technical cadre and for doing justice the petitioner was accommodated and granted pay-scale of Routine Clerk. The reason assigned in Annexure-10 indicates that the Annexure-5 was a mistake to the extent that the name of the petitioner was wrongly incorporated in Annexure-5 and in view of Annexure-8 and 9 it is also evidently clear that the University has not acted



upon in accordance with Annexure-5 realizing the mistake and finally vide Annexure-10 it was categorically held out that the post of Assistant is not available for promotion from technical cadre.

Under the aforesaid circumstances, the Court does not find any reason to interfere with the impugned order contained in Annexure-10.

Accordingly, the petition stands dismissed.

(Anil Kumar Upadhyay, J)

Ravi/-

U			
---	--	--	--

