

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14646 of 2009

=====

Anant Lal Jha, S/O Late Kako Jha, Resident of Sabour (Chhoti Hat), P.S.
Sabour, Town & Distt. Bhagalpur

... .. Petitioner/s

Versus

1. The Tilkamanjhi Bhagalpur University, Bhagalpur through Its Registrar
2. The Vice Chancellor, Tilkamanjhi Bhagalpur University, Bhagalpur
3. The Registrar, Tilkamanjhi Bhagalpur University, Bhagalpur
4. The Finance Officer Tilka Manjhi Bhagalpur University, Bhagalpur
5. The Principal Sabour College, Sabour, Distt. Bhagalpur
6. The State Of Bihar, Through The Principal Secretary Human Resources
Development Deptt., Govt. Of Bihar, Patna
7. The Director Deptt. Of Higher Education, Govt. Of Bihar, Patna
8. The Deputy Director Higher Education, Govt. Of Bihar, Patna

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Purushottam Kr. Jha, Advocate
For the Respondent/s	:	Mr. Raghwanand, GA-11
		Mr. Dr. Kamal Deo Sharma, AC to GA-11
For the University	:	Mr. Shivendra Shankar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 22-11-2018

Heard learned counsel for the petitioner, State and the
University.

2. Mr. Purshottam Kumar Jha, learned counsel appearing
on behalf of the petitioner submits that the petitioner though
appointed on Class-IV post was granted promotion on the post of
Laboratory incharge (Geography) by the Managing Committee of
the College before the College was made constituent unit of the
University in 4th phase. Referring to Annexure-6 Series (page-23)
he submits that this petitioner, who was appointed on 05.03.1981
was promoted to the post of Laboratory incharge (Geography) on
06.11.1985 and he is still continuing on the said post. He submits



that Annexure-6 was the document filed by the University before the Justice S.C. Agrawal (Retd.) Commission, who was hearing the matter with regard to 4th phase constituent colleges after the reference by the Apex Court in the case of **State of Bihar & Ors. Vs. Bihar Rajya M.S.E.S.K.K. Mahasangh & Ors.**, reported in **(2005) 9 SCC 129** Justice S.C. Agrawal (Retd.) Commission has noted that the petitioner is Class-IV employee for the purpose of absorption and follow up notification was issued by the University i.e. Notification No. 37/2005 treating the petitioner as Class-IV employee, but right from 06.11.1985 till date the petitioner is regularly working as Lab Incharge (Geography) and as such the petitioner would be entitled to the benefit of scale of Lab incharge (Geography). Learned counsel for the petitioner placed reliance on the Division Bench judgment dated 15th May, 2007 passed in Dr. Nitya gopal Bandyopadhyay (L.P.A. No. 517 of 1998) where the Division Bench noticing the continuous service rendered by Dr. Nitya gopal Bandyopadhyay held out that the petitioner is entitled to pay of Principal on account of continuous officiation for such a long period.

3. Referring to the aforesaid Division bench judgment, learned counsel for the petitioner submitted that in the present case undisputedly the petitioner has continuously worked for more than



three decades on the post of Lab. Incharge (Geography) and as such the petitioner is entitled to payment of salary for the post of Lab. Incharge (Geography). He submits that similar view was expressed by the Apex Court in the case of **Arindam Chattopadhyay & Ors. Vs. State of West Bengal and Others**, reported in **(2013) 4 SCC 152**.

4. Considering the fact that the petitioner has worked for more than three decades as Lab incharge (Geography), the petitioner cannot be denied his minimum salary admissible to the post of Lab. Incharge. The respondents are accordingly directed to work out the entitlement of the petitioner as Lab Incharge and ensure payment thereof preferably within a period of four months from the date of receipt of a copy of this order.

5. With the aforesaid, the writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.11.2018
Transmission Date	

