

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20163 of 2011

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Most. Dewaki Devi, W/o late Kapileshwar Ram, R/o Village- Khutauna, P.S. Khutauna, Distt.- Madhubani. Petitioner/s

Versus

1. The State of Bihar, through Secretary, Higher Education, Bihar, Patna.
2. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.
3. The Registrar, Lalit Narayan Mithila University, Darbhanga.
4. The Principal, C.M.J. College, Donwari Hat, Khutauna, P.O. Khutauna, P.S. Babubarhi, District- Madhubani.
5. Sri Nirmal Prakash Singh, the then Secretary of C.M.J. College, Donwari Hat, P.O. Khutauna, P.S. Babubarhi, District- Madhubani, at Present residing of Village & P.O. Bikhari, P.S. Ladania, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Shikha Roy, Advocate

For the Respondent/s : Mr. Kamlesh Kishore, AC to SC-12

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 19-09-2018

Heard learned counsel for the petitioner and State as well as State.

2. The original petitioner filed the present writ application challenging the reasoned order dated 28.06.2011 (Annexure-6).

3. C.W.J.C. No. 14465 of 2003 was filed by the original petitioner for a direction to the respondents to regularize the service of the petitioner, who was working on daily wages post since 07.03.1979. The aforesaid writ application was disposed of vide order dated 29.10.2010. The Writ Court considering the judgment of the Apex Court in the case of State of Karnataka & Ors. Vs. M. L. Kesari & Ors., reported in AIR 2010 SC 2587 directed the University to consider the case of the petitioner as one time exercise as held in the



case of Secretary, State of Karnataka & Ors. Vs. Uma Devi, reported in (2006) 4 SCC 1 and reiterated in the case of M.L. Kesari (supra) and pass reasoned order.

4. Pursuant to the aforesaid order of the Writ Court respondent University passed Annexure-6 purportedly the reasoned order. The reason assigned in the impugned order (Annexure-6) is reproduced herein below:

1. After conversion of the College into constituent College the approval was accorded by the University towards the valid appointment of the employees against the sanctioned posts and the appointment of the employees against unsanctioned posts irregularly, were treated as invalid. The appointment of the petitioner Sri Kapileshwar Ram was also treated invalid.

2. The pay fixation of the employees appointed against the sanctioned posts prior to conversion of the College done by the University were treated as sanctioned posts and rests were treated invalid.

3. The irregular appointment of the petitioner Sri Kapileshwar Ram has already been rejected vide letter no. 4788 dated 14.03.84 and letter no. VCR-1764/07 dated 15.11.07 (**Annexure-I**)

Hence, the representation of the petitioner Sri Kapileshwar Ram received on 09.12.10 is rejected on the basis of above facts.

5. The reason assigned in Annexure-6 appears to be empty formality, as the University has not discussed the case of the petitioner and decided the claim in the light of the judgment of the



Apex Court in the case of Uma Devi and M.L. Kesari (supra). The Registrar while communicating the order has only mentioned that earlier the claim of the petitioner was rejected on 15.11.2007 and as such the claim of the petitioner is rejected.

6. The reasoned order, in the peculiar facts and circumstances is totally non-application of mind and in fact a gross contempt of the order passed by the Court, as the respondents have not passed the order in the light of order passed in C.W.J.C. No. 14465 of 2003 dated 29.10.2010 and as such the order cannot sustain in view of the categorical finding of the Writ Court that the petitioner has worked for nearly three decades and as such the University was required to consider the case for regularization of the petitioner as one time measure.

7. In view of the above, the Court does not find that the order (Annexure-6) is true in compliance of direction issued by this Court in C.W.J.C. No. 14465 of 2003 dated 29.10.2010. Accordingly, the impugned order (Annexure-6) is quashed. The respondent University is directed to consider the case of the original petitioner strictly in terms of the direction issued in C.W.J.C. No. 14465 of 2003 and if it is found that the original petitioner has actually worked for three decades, the respondents have to grant the benefit of regularization to the original petitioner and workout the entitlement on account of regularization of the original petitioner.



8. Final decision in this regard must be taken by the respondent University within a period of four months from the date of receipt/production of a copy of this order and the respondents have to ensure payment of all the consequential benefits to the substituted heir of original petitioner Kapileshwar Ram within the time frame indicated above.
9. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.09.2018
Transmission Date	

