

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3809 of 2010

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1. Dr.Narendra Narain Misra S/O Late Chakradhar Pd. Mishra R/O Moh Adampur,P.S. Adampur(Kotwali),Town & Distt-Bhagalpur
 2. Upendra Kumar S/O Late Mahaveer Kumar R/O R.B.S.Pd.Road,Jhaui Kothi,Chhoti Kanjarpur,Ps.Barari,Town &Distt-Bhagalpur
 3. Dr. Pramod Kumar Sinha S/O Mr. Indra Narain R/O Jogsar,P.S.Adampur(Kotwali),Town &DISTT-BHAGALPUR
 4. Keshava Narayan Singh S/O Late Baldeo Pd. Singh R/O Moh Sukhikal,Tilakamanjhi,P.S.Barari,Town &DISTT-BHAGALPUR
 5. Dr. Dayanand Rai S/O Late Bhuvneshwar Roy R/O Moh Maniksarkar,P.S.Adampur(Kotwali),Town &DISTT-BHAGALPUR

... .. Petitioner/s

Versus

1. The T.M.Bhagalpur University Bhagalpur Through Its Registrar
2. The Vice- Chancellor T.M Bhagalpur University, Bhagalpur
3. The Financial Advisor T.M Bhagalpur University, Bhagalpur
4. The Registrar T.M Bhagalpur University, Bhagalpur
5. The Inspector Of College T.M Bhagalpur University, Bhagalpur
6. The Finance Officer T.M Bhagalpur University, Bhagalpur
7. The Principal B.N.College,Bhagalpur
8. The State of Bihar ,through The Principal Secretary,Department Of Finance Government Of Bihar,Main Secretariate,Patna
9. The Principal Secretary,Human Resources Development Department Government Of Bihar,New Secretariat,Patna
10. The Additional Secretary,Human Resources Development Department Government Of Bihar,New Secretariat ,PATNA
11. The Joint Secretary,Human Resources Development Deptt. Government Of Bihar,Patna
12. The Director ,(higher Education),Human Resources Development Department Government of Bihar,New Secretariat,Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Purushottam Kr.Jha, Advocate
For the Respondent/s : Mr. Sanjay Prasad, AC to AAG-4

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

13 09-10-2018

This matter was earlier listed and Mr. Puroshottam Kr.

Jha was heard at length on previous occasion but no one appeared on behalf of the Tilkamanjhi University, Bhagalpur.



In the present writ application the grievance of the petitioners is the order contained in Annexure-18.

Learned counsel for the petitioners with reference to Annexure-18 submits that the order contained in Annexure-18 was passed without compliance of principle of natural justice.

Mr. Jha referring to Annexure-18 submits that the promotion granted to the petitioner earlier was revised to the detriment of the petitioner without compliance of the principle of natural justice. The order does not indicate that any opportunity of hearing was provided to the petitioner before taking action of revising the date of promotion.

On behalf of the respondent nos. 1 to 6 a counter affidavit has been filed wherein a stand has been taken that petitioner was granted post facto concurrence for three months. Referring to the order of C.W.J.C. No. 5859 of 1996 he submits that the action of the respondents in revising the date of promotion is justified.

In para-8 of the counter affidavit the following statement has been made which reads as follows:-

“That it is submitted that in view of the fact that the case of the petitioner is also covered by the aforesaid judgments and their service having been absorbed under the statutes under scrutiny therein the petitioners cannot be permitted to get their services treated from the



initial date of joining but only that part of the service can be treated which is legal and valid as held aforesaid. In view of these there is no merit in the writ petition and the same is fit to be dismissed.”

It is true that in the matter of counting seniority, the date of appointment shall be reckoned only if the initial appointment is made after following the selection process but fact remains that once respondents have granted the benefit of time bound promotion treating the initial date of entry the same cannot be altered without opportunity of hearing to the petitioners. There is no denial of the fact that adverse order was passed without hearing the petitioners.

Accordingly, Annexure-18 is quashed. However, the quashing of Annexure-18 will not come in the way of respondents to take fresh decision after giving opportunity of hearing to the petitioner and taking appropriate decision counting seniority from the initial date or subsequent date, if it is found that initial appointment was made after following the advertisement selection process the benefit of service from the initial date shall be available to the petitioners otherwise respondents are free to revise the date of initial appointment after following the principle of natural justice.

Considering the fact that petitioners have superannuated, the respondents have to take such decision at the



earliest preferably within a period of four months after
opportunity of hearing to the petitioners.

With the aforesaid, the writ petition stands disposed
of.

(Anil Kumar Upadhyay, J)

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