

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20011 of 2014

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1. Dr. Chandragupta, Son of Ramashish Singh, Resident of Village+P.O.-Andauli, P.S.-Satsobra, District-Patna.
 2. Pramod Prasad Singh, son of Late Bhiringunandan Prasad Singh, At + P.O.-Bhagwatipur Karmour, P.S.- Pandarak, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Higher Education, Patna.
4. Magadh University, Bodh Gaya , through its Registrar.
5. The Vice-Chancellor, Magadh University, Bodh Gaya, District- Gaya.
6. The Registrar, Magadh University, Bodh Gaya, District-Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Singh Mr. Ranvijay Singh
For the Respondent/s	:	Mr. Shivendra Kishore, Sr. Adv. Mr. Priyank Deepak, Adv. Mr. Manoj Kumar Sinha, A.C. to G.A.-9/

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 12-09-2018

1. Heard learned counsel for the petitioner and counsel appearing on behalf of the State.
2. Pursuant to the order dated 18.08.2018, learned counsel appearing on behalf of the State has produced the original document. On perusal of the original document, it appears that the post created by Memo No.1321-22/Aa dated 10.12.1981 (Annexure-1) is in the subject Tarkshastra.
3. From perusal of Annexure-1, it is manifest that the post of



Lecturer of Tarkshastra was sanctioned for Scheduled Tribes category. The petitioner No.1 who was appointed as Lecturers, Tarkshastra does not belong to Scheduled Tribes category. Mr. Sunil Kumar Singh referred to the recommendation of the Bihar College Service Commission to contend that the Lecturer, Philosophy, (Tarkshastra) was advertised and petitioner No.1 was recommended for appointment and petitioner NO.1 was appointed accordingly.

4. Learned counsel referring to the Bihar College Service Commission Repeal Act, 2007 submitted that the action taken by the Bihar College Service Commission is saved under repeal and saving clause and as such the petitioner has acquired right not only for appointment but consequently payment of salary also. On scrutiny of the case of petitioner No.1 at the touch stone of Annexure-1 the Court is of the considered view that financial liability for payment of salary against the post of Lecturers, Tarkshashtra is only for Scheduled Tribes category and petitioner No.1 does not belong to Scheduled Tribes category and as such he cannot claim any financial support for payment of salary in terms of Annexure-1 from the public exchequer.

5. Adverting to the claim of the petitioner No.2 who was appointed Lecturer, Economics Mr. Sunil Kumar Singh submitted that the post of Lectures was sanctioned vide Memo No.184 dated



16.06.1982, i.e., before the date of policy decision of Vitta Rahit Shiksha Niti and as such post falling in the category of sanctioned post on 16.06.1982 is with State Financial Liability and State is under obligation to provide financial assistance for payment of salary to teacher appointed as lecturer Economics. Mr. Singh submitted that the petitioner No.2 was appointed on the basis of the recommendation of the Bihar College Service Commission as Lectures against the sanctioned post of teacher and as such the State Government is obliged to provide fund for payment of salary.

6. In view of the above, the writ petition is allowed so far as petitioner No.2 is concerned, respondents are directed to ensure payment of salary, arrears and current from the State fund, in view of the fact that the post in question was created prior to giving into force the Vitta Rahit Shiksha Niti the petitioner No.2 was validly appointed on the recommendation of the Bihar College Service Commission.

7. With the aforesaid observation and direction, this writ petition is allowed and disposed of to the extend indicated above.

Sanjeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18/09/2018
Transmission Date	NA

(Anil Kumar Upadhyay, J)

