

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15442 of 2014

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Vishnudeo Prasad Singh Son of Late Lattar Singh, Resident of Village-
Chhatauni, P.O.- Chhatauni, P.S.- Basopatti, District- Madhubani- 847225

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Dept. of Education, Govt. of Bihar, Patna
2. The Principal Secretary, Dept. of Education, Govt. of Bihar, Patna
3. The Director, Higher Education, Dept. of Education, Govt. of Bihar, Patna
4. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga
5. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga
6. The Secretary, Saint Narayan Sanskrit College, Chhatauni, Madhubani
7. The Principal, Satya Narayan Sanskrit College, Chhatauni, Madhubani

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Satyam Shivam Sundaram, Advocate.
For the Respondent/s	:	Mr. Krishna Kant Tiwari, AC to SC-27.
For the University	:	Mr. Awadesh Prasad Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

- 4 27-09-2018 1. Heard learned counsel for the petitioner and
counsel appearing on behalf of the State as well as University.
2. Present writ application involve the issue of
approval of services of the petitioner.
3. Learned counsel appearing on behalf of the
petitioner submits that petitioner was appointed on the 2nd post
of Clerk on 05.10.1978. He further submitted that joining of
petitioner was accepted on the same day and he is regularly
working on the post since 1978.
4. Mr. Satyam Shivam Sundram, learned counsel for
the petitioner submits that in Satya Narayan Sanskrit College,



Chhatauni, Madhubani two posts of Clerk is admissible and petitioner was appointed against the available two posts of Clerk and in view of the above there is no difficulty in the way of the respondents to recognize the services of the petitioner as Clerk.

5. On behalf of the respondents counter affidavit has been filed wherein objection has been raised in terms of Section 35 (3) of Bihar State Universities Act that prior approval of the State Government is required in the matter of sanction of posts. In paragraph -6 to the counter affidavit objection has been raised that the petitioner was not appointed or working against the sanctioned posts. In paragraph 10 however they have admitted that the petitioner was paid salary from 2008 and vide Annexure- 11 of the writ petition request was made by the University to the State Government for sanction of post and its grant for payment. In paragraph 12 objection has been raised with reference to the judgment of Secretary State of Karnataka Vs. Uma Devi and M.L. Kesri as well judgment of full Bench has been taken by the respondent to contest the claim of the writ petition and the respondent University has also raised objection with reference to the Judgment of the Division Bench in the case of Nand Lal Bhagat & Ors. Vs. the State of Bihar & Ors.. The objection raised in the counter affidavit is only valid if it



found that petitioner was appointed on unsanctioned post. Once it is admitted that there is two sanctioned posts and petitioner was appointed in Sanskrit college in question against the 2nd sanctioned post, there is no substance in the objection of the respondent that petitioner was not appointed against the unsanctioned posts.

6. Mr. Satyam Shivam Sundram has drawn attention of this Court to Annexure-3 the communication Registrar of the University which admits the provisional approval of the service of the petitioner. In the aforesaid letter the name of the petitioner is at Sl. No. 1 indicating date of appointment as 15.10.1978. He also referred to the communication of the Registrar to the Deputy Director Higher Education in connection of appointment and payment of salary of the petitioner therein. It is admitted that petitioner was paid salary upto February 2011. The letter admits the continuous service of the petitioner.

7. In view of the letter contained in Annexures 3 and Annexure- 13, the Court is of the view that the claim of the petitioner cannot be ignored in the matter of grant of approval of the service. It should be borne in mind that if the sanctioned posts is available for consideration of appointment, in addition thereto the State Government is required to consider staffing



pattern or sanction of additional posts based on need as it was done in the case of other colleges receiving the deficient grant.

8. In view of the above the writ petition is disposed of with direction to the University to furnish the details of the petitioner for consideration of his case for sanction, the State Government is required to consider the case of petitioner in the light of their own policy decision contained in letter No. 1820 Dated 17.11.1998 which was formulated in the light of the Judgment of the Full Bench in Braj Kishore Singh case reported in 1997 (1) PLJR 509 and take appropriate decision within a maximum period of four months from the date of receipt/production of a copy of this order.

9. State Government is also required to take decision for grant of approval of service of the petitioner considering the fact that the petitioner is continuing in college in question since 1978 and now he has completed 40 years. The case of the petitioner is a hard case which requires sympathetic consideration. While taking the decision respondent are required to consider the case of the petitioner in the light of the decision contained in Annexure-8 whereby similarly circumstanced other employee of the college was appointed in similar manner and their services were approved by the respondents.



10. It is made clear that all consequential benefits of such decision including salary, arrears of salary and current salary must reach to the petitioner within a further period of two months from the date of such decision.

11. With the aforesaid the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

T.Kr./-

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