

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1958 of 2015

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Anil Kumar Singh Son of Late Mahadeo Singh, at Bindwara, P.S. - Kasim Bazar,
P.O. and District – Munger, Pin 811201.

.... Petitioner/s

Versus

1. The State of Bihar through Director Education Department (H.E.), Government of Bihar, Patna.
2. The Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur - 812007.
3. The Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur -8112007.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prashant Kashyap and
Mr. Pawan Kumar Singh, Advocates

For the Respondent/s : Mr. Raisul Haque, S.C. 10
Mr. Binay Kumar, A.C. to S.C. 10

For the University : Mr. Ashhar Mustafa, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 23-08-2018

Heard learned counsel for the petitioner; State and T.M.

Bhagalpur University (hereinafter referred to as the ‘University’).

2. The petitioner has moved the Court for the following
reliefs:

*“That this writ application is being filed for
issuance of a writ in the nature of certiorari for
quashing the order Memo No. 367-369 dated
14.08.2014 of the vice- chancellor T.M. Bhagalpur
university, Bhagalpur as contained in Annexure 1 to*



this petition by which he has rejected the representation of the petitioner for regularization of his service on the post of laboratory in-charge of R.D. and D.J. College Munger on misconceived grounds and further may be pleased to direct the respondent No. 2 to regularize the service of the petitioner on the aforesaid post.”

3. The petitioner was initially appointed on daily wages in the office of the Laboratory Incharge in the Botany Department of R.D. & D.J. College, Munger on the representation of the Principal of the college by the Vice Chancellor for a period of six months with the clear cut stipulation that he shall have no claim for regular appointment. Such order is dated 10.05.1988. Thereafter, the petitioner moved the Court in C.W.J.C. No. 6118 of 2000, seeking regularization which was disposed off on 24.09.2008, for moving before the Vice Chancellor of the University, who was directed to dispose off the claim within a period of three months. In terms of the order, the petitioner having moved the authorities, his claim was rejected by the Vice Chancellor of the University by order dated 14.08.2014, which is under challenge in the present writ application.

4. Learned counsel for the petitioner submitted that the petitioner was appointed by the Vice Chancellor and thereafter he continued in service and even the Court in its earlier order has referred to the order of the Chancellor of the University to consider the case for regularization of the services of Class-III and Class-IV



daily wage employees on vacant sanctioned posts. Learned counsel submitted that the same has not been considered in correct perspective and even the impugned order has noticed incorrect facts.

5. When called upon, learned counsel for the University could not assist the Court.

6. Learned counsel for the State submitted that as the matter is related with the University, for the present, they have no role in the matter.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present writ application. The law relating to regularization has now been settled by a Full Bench of this Court in the case of **Ram Sevak Yadav vs. State of Bihar** reported as **2013 (1) PLJR 964**. After considering all the relevant decisions of the Courts, including that of the Hon'ble Supreme Court in the case of **Secy., State of Karnataka v. Uma Devi (3)** reported as **(2006) 4 SCC 1** as well as that of **State of Karnataka v. M.L. Kesari** reported as **(2010) 9 SCC 247**, the Full Bench in the case of **Ram Sevak Yadav** (supra) has finally summed up its conclusion in paragraph No. 43 which reads follows:

“43. We therefore sum up our conclusions and answer the reference as follows:-

(A) Uma Devi (supra) prohibits regularization of daily wage, casual, ad-hoc and temporary



*appointments, the period of service being irrelevant;
(B) An illegal appointment void ab-initio made contrary to the mandate of Article 14 without open competitive selection cannot be regularized under any circumstances.*

(C) Irregular appointments can be regularized if the appointment was made by an authority competent to do so, it was made on a vacant sanctioned post, in accordance with Article 14 of the Constitution with equal opportunity for participation to others eligible by competitive selection and the candidate possessed the eligibility qualifications for a regular appointment to the post.

(D) The appointment must not have been an individual favour doled out to the appointee alone and the person must have continued in service for over ten years without intervention of any court orders.”

8. From the aforesaid, it is clear that an illegal appointment void ab initio made contrary to the mandate of Article 14 without open competitive selection cannot be regularized under any circumstances.

9. In the present case, it is an admitted position that the petitioner was directly appointed as a daily wager for six months without confirming with the mandate of Article 14 and without open competitive selection. As the Full Bench of this Court has clearly held that such illegal being void ab initio cannot be regularized under any circumstances, the petitioner in the present case also cannot be granted any relief.

10. Accordingly, the writ petition stands dismissed.



11. It would be noteworthy to indicate that such Full Bench decision of this Court has been approvingly noticed by the Hon’ble Supreme Court in the judgment dated 23.02.2018 in Civil Appeal No. 2356 of 2018 in the case of **Upendra Singh vs. State of Bihar & Ors.**

(Ahsanuddin Amanullah, J.)

P. Kumar

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