IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23758 of 2012

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1. Mod Narayan Parihasta S/O Sri Kula Nand Parihasta R/O Vill&P.O.-Banki, P.S.-Madhepur, Distt-Madhubani, At Present Working On The Post Of Pti In Adinath Madhusudan Parasmani Sanskrit Mahavidyalaya, Rahua Sangram , P.S.-Bheja, Distt-Madhubani

.... Petitioner/s

Versus

1. Kameshwar Singh Darbhanga Sanskrit University , Kameshwarnagar, Darbhanga, Distt-Darbhanga Through Its Registrar
2. Vice-Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwarnagar, Darbhanga, Distt-Darbhanga
3. Registrar, Kameshwar Singh Darbhanga Sanskrit University, Kameshwarnagar, Darbhanga , Distt-Darbhanga
4. Principal , Adinath Madhusudan Parasmani Sanskrit Mahavidyalaya , Rahua Sangram , P.S.-Bheja, Distt-Madhubani
5. The State Of Bihar Through Principal Secretary(Higher Education), Human Resources Development Department , Bihar, Patna

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Durga Nand Jha, Advocate
For the State : Mr. Ravi Kumar, A.C. to G.P.-13
Mr. Amresh, A.C. to G.P.-13
For the University : Mr. Gayanand Roy, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 05-09-2018

Heard the learned counsel for the petitioner and counsel appearing on behalf of the State.

Mr. Durga Nand Jha, learned counsel appearing on behalf of the petitioner submits that the petitioner was appointed in the year 1979 on the post of Counter Clerk in the college in question. The college in question was made constituent unit in 3rd phase pursuant to the policy decision of the State Govt. dated 11.07.1981. The agreement was entered between the university and the Secretary of the

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erstwhile college on 15th of April, 1982 and thereafter the college was made constituent unit.

Learned counsel for the petitioner submits that the case of the petitioner was examined by the university and the petitioner's service was approved by the University on the post of PTI with effect from 01.02.1982. From perusal of Annexure-3, it would be evident that the approval of the petitioner is subject to the approval of the Government. Mr. Jha submits that in fact the post of PTI was sanctioned by the State Government in 1981 when the college was not made constituent unit. The University has the jurisdiction under Section 4(1)(14) of the Bihar State University Act, 1976 to take appropriate decision with regard to absorption of the employee of teaching and non-teaching staff. From the materials available on record, it does not appear that any formal decision was taken by the university with regard to the absorption of the petitioner as non-teaching employee in exercise of jurisdiction under Section 4(1)(14) of the Bihar State University Act, 1976.

Mr. Gayanand Roy, learned counsel appearing on behalf of the University, submits that the college was made constituent unit in 1982. The University is required to take decision for absorption of the erstwhile employee of the affiliated college by the university in terms of Section 4(1)(14) of the Bihar State University Act, 1976. Mr. Roy admits the position that Annexure-3 is the approval of the university as to the service of the petitioner as PTI but that decision is subject to

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approval of the State Government and till date, there is no approval by the State.

Mr. Jha, learned counsel appearing on behalf of the petitioner, submits that the case of the petitioner is covered by the order passed in C.W.J.C. No.78 of 2006 which is reported in 2010 (3) PLJR 254. He submits that the decision of the Writ Court was affirmed by the LPA Court vide L.P.A. No. 134 of 2010 vide order dated 22.12.2011.

Without going into the merit of the aforesaid case, the writ petition is disposed with a direction to the respondent-University as well as State to examine the claim of the petitioner in the light of the decisions in 2010(3) PLJR 254 and LPA No. 134 of 2010 referred to above. Final decision in this regard may be taken by the respondent authorities within a maximum period of four moths from the date of receipt / production of a copy of this order.

With the aforesaid observation and direction, this writ petition is disposed of.

(Anil Kumar Upadhyay, J)

Sanjeev/-Mukesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	…./09/2018
Transmission Date	

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