

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11861 of 2014

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Rama Nand Roy, son of Late Anandi Roy, resident of At Mohalla- Chiknouta,
P.O. Hajipur, P.S.- Hajipur, District- Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Bihar, Patna
2. B.R. Ambedkar Bihar University, Muzaffarpur through its Registrar
3. Vice Chancellor, B.R. Ambedkar Bihar University, Muzaffarpur
4. Registrar, B.R. Ambedkar Bihar University, Muzaffarpur
5. Principal, Deo Chand College, Hajipur, Vaishali

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhinav Srivastava, Advocate
		Mr. Ujjawal Bhushan, Advocate
For the State	:	Mr. R.K.Singh, Advocate
For the University	:	Mr. Samir Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 01-11-2018

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

Petitioner has filed the present application for a direction
to the respondent to take step for regularization of the service of
the petitioner on the post of Routine Clerk at Deo Chand College,
Hajipur which is under the B.R. Ambedkar Bihar University,
Muzaffarpur, which was made constituent in third phase. Petitioner
was appointed in the year 1980 (10.12.1980).

Learned counsel for the petitioner submits that the case
of the petitioner is similar to the petitioners of CWJC No. 21242 of



2014 which has been disposed of by order dated 1.10.2018 by this Court.

Learned counsel for the petitioner submits that the petitioner has regularly worked after the appointment by ad hoc committee of the college on 10.12.1980. On behalf of the petitioner firstly it is submitted to consider the case of petitioner in terms of Section 4 (1) (14) of Bihar State University Act, on takeover of the college, since the petitioner was appointed before takeover his case deserves consideration in terms of Section 4 (1) (14) of the Act. In the alternative of Mr. Abhinav Srivastwa learned counsel for the petitioner submits that since petitioner is regularly working in the College and in view of the judgment of the Full Bench in ***Braj Kishore Singh v. State of Bihar 1997 (1) BLJR 652*** and the scheme formulated by the State Government vide letter No. 1820 dated 17.11.1998, the respondents were obliged to consider the case of the petitioner for regularization with all consequential benefits.

In the instant case neither State nor the University has filed counter affidavit. However, stand has been taken on behalf of the University that earlier the petitioner had approached this Court in CWJC No. 7880 of 2007, and thereafter the case of the petitioner was considered by the University and the same was



rejected vide order as contained in Annexure-16. After Annexure-16 the petitioner has filed the present writ petition.

Learned counsel for the University submits that the case of the petitioner is distinguishable from the case of petitioner of CWJC No. 21242 of 2014 disposed of on 1.10.2018.

On scrutiny of fact the Court finds that the fact situation in both the writ petition is identical and in that view of the matter, the Court does not find any substance in the argument advanced on behalf of the University that the case of the petitioner is distinguishable on facts and different treatment is permissible in the case of this petitioner.

In view of the above, the Court is of the considered view that the present writ petition also deserves to be disposed of in similar terms of CWJC No. 21242/2014 which was disposed of vide order dated 1.10.2018. The relevant part of the order dated 1.10.2018 is quoted below:-

“In view of the judgment of the Apex Court in Amar Kant Rai (supra) the case of petitioner deserves regularization as there is no denial of the fact in the counter affidavit that the petitioner is regularly working. Since University has not taken filed in counter affidavit the Court is constraint to dispose of the writ application with a direction to the University to examine the case of the petitioner for regularization in terms of the judgment of the Apex Court in



Amar Kant Rai (Supra) and if it is found that the case of the petitioner are covered by the judgment of the Apex Court in Amar Kant Rai (supra) the University will recommend the case of the petitioners for regularization and the State is obliged to take appropriate decision in relation to the claim of the petitioners for regularization in the light of decision in Amar Kant Rai. Final decision on the claim of the petitioner for regularization will be taken by the respondent University as well as the State within a maximum period of four months from the date of receipt/production of a copy of this order. The University is also required to consider the case for grant of consequential benefits to the petitioners, considering the fact that the petitioners have worked in the University for more than three decades.”

The present writ petition also is disposed of in similar terms.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.11.2018
Transmission Date	

