

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10958 of 2009

Vijay Narayan Singh, S/o Late Gopal Singh, R/o at present Assistant in B.D.
Evening College, Mithapur, Patna Petitioner/s
Versus

1. The State Of Bihar
 2. The Magadh University through its Registrar, Bodh Gaya (Gaya)
 3. The Vice Chancellor, Magadh University, Bodh Gaya (Gaya)
 4. The Registrar, Magadh University, Bodh Gaya (Gaya)
 5. The Principal, B.D. Evening College, Patna Respondent/s
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Appearance :

For the Petitioner/s : Mr. Rajendra Pd. Singh, Sr. Advocate
Mr. Nirala Kr. Singh, Advocate
For the University : Mr. Shivendra Kishore, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 10-09-2018

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

2. The petitioner was appointed in the college in
question, a constituent unit of Magadh University in 4th phase.
The name of the petitioner figures in the letter No. 25-C, which is
admitted by the University in the counter affidavit.

3. The issue with regard to absorption of teaching and
non-teaching employees was considered by this Court as well as
the Apex Court on more than one occasions. In the first round of
litigation when the matter was taken to the Supreme Court, the
Supreme Court constituted Justice S.C. Agrawal Commission to
verify with respect to post creation, qualification, availability of
the sanctioned post and other aspects. Justice S.C. Agrawal
Commission after marathon hearing submitted an exhaustive
report. The said report was evaluated upon before the Supreme
Court and the Apex Court issued direction to the concerned



Universities to take step for absorption in terms of Section 4(1) (14) of the Bihar State Universities Act. The judgment of the Apex Court in the case of State of Bihar Vs. Bihar Rajya MSESKK Mahasangh is reported in (2005) 9 SCC 129. After the judgment of the Apex Court steps were taken by the different Universities including the Magadh University and decision was taken for absorption of the teaching and non-teaching employees in the light of the judgment in the case of Mahasangh (supra) and in exercise of jurisdiction under Section 4(1) (14) of the Act.

4. In second round of litigation the matter was taken to the Supreme Court by one Krishna Nand Yadav and the Supreme Court once again constituted a Commission for identifying the claim at the anvil of report of Justice S.C.Agrawal Commission. Initially Justice S.C.Agrawal was asked to perform this job and on his refusal Justice S.B.Sinha was asked to accomplish the task. Justice S.B. Sinha submitted a report which was considered by the Apex Court and the favourable report of the Justice S.B.Sinha Commission was accepted and those who were aggrieved by the report of Justice S.B.Sinha Commission was granted liberty to approach the High Court.

5. This Court has occasion to examine the case of teaching and non-teaching employees, who had filed writ petition



pursuant to the liberty granted by the Apex Court in Krishna Nand Ydava's case. On consideration of the entire facts and circumstances of the case, this Court has passed judgment on 17.7.2018 in CWJC No. 17670 of 2017 holding that non-teaching employees whose names figure in the letter 25-C have to be absorbed and they should be treated as absorbed employees and consequential benefits should be extended to them within a period of four months.

6. In view of the decision taken by this Court on 17.7.2017 in CWJC No. 17670 of 2017, the present writ petition is allowed. The respondents are directed to treat the petitioner as absorbed employee and grant all consequential benefits to the petitioner within a period of four months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.09.2018
Transmission Date	

