

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7724 of 2013

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Deepankar Ranjan Son of late Srikant Sinha R/o- Prem Nagar, Horilganj,
Jehanabad, P.S. +District- Jehanabad.

... .. Petitioner/s

Versus

1. Magadh University, Through It'S Registrar, At Bodh Gaya , District - Gaya
2. The Vice-Chancellor, Magadh University Bodh-Gaya
3. Pro-Vice Chancellor, Magadh University Bodh Gaya
4. The Registrar, Magadh University Bodh Gaya
5. The Principal, S.S. College, Jehanabad, P.S. & District - Jehanabad
6. The State Of Bihar Through It'S Secretary, Human Resources Department
(Higher Education) Government Of Bihar Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dronacharya, Advocat
For the Respondent/s	:	Mr. Anil Kumar Singh, GP-26
For the Magadh Uni.	:	Mr. Shivendra Kishore, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 30-10-2018

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

2. The original writ petitioner earlier approached
this Court for payment of retiral dues in C.W.J.C. No. 19907 of
2010. The said writ petition was disposed of with direction to
the respondents to dispose of the representation. The
representation of the original petitioner was rejected by the
Vice-Chancellor, Magadh University.

3. Aggrieved by the order rejecting the
representation of the petitioner in 2012, the original petitioner



has filed the present writ application. During the pendency of the writ application, the original petitioner died and in place of original petitioner the son and legal heir of the original petitioner has been substituted as substituted petitioner vide I.A. No. 5785 of 2018.

4. Learned counsel appearing on behalf of the petitioner would submit that once the original petitioner superannuated as Demonstrator, the respondent-University has absolutely no jurisdiction to revert the petitioner from the post of Demonstrator to Storekeeper after attaining the age of superannuation.

5. Mr. Shivendra Kishore, learned Sr. counsel appearing on behalf of the University does not dispute the fact that the original petitioner superannuated and thereafter the University has taken decision to revert the original petitioner as Storekeeper from the Demonstrator. He submits that the order dated 5.1.2016 which was issued subsequent to rejection of the representation of the petitioner has not been challenged by the writ petitioner. He also contended that there is no provision for promotion from the Storekeeper to Lab in-charge. In addition thereto, he submitted that the post of Lab in-charge is not sanctioned in the S.S. College, Jehanabad till date.



6. Similar stand has been taken by counsel appearing on behalf of the State to contest the challenge made by the writ petitioner. Admitted factual position is that the relationship of Master and Servant has come to an end after superannuation of the original petitioner and after cessation of the Master and Servant relation, the University ceases to be the employer of the petitioner and has absolutely no jurisdiction to revert the petitioner from the post of Demonstrator/Lab in-charge to Storekeeper.

7. There is no substance in the objection raised by the University that the decision of 2016 reverting the original petitioner from Lab in-charge to Storekeeper has not been challenged as it does not merit any consideration in the instant case for the two fold reasons. Firstly, after the relationship came to an end the University has absolutely no jurisdiction and such order is at the highest waste paper it has to be ignored as the University has absolutely no jurisdiction to pass any order of reversion after superannuation. Secondly, the Court is conscious of the fact that the matter with regard to re-designated Demonstrator was taken to the Supreme Court after the amendment of definition of teachers. The matter was finally decided by the Apex Court in the case of Durga Prasad Singh's



case. The relevant part of the decision of the Apex Court in Durga Prasad Singh is quoted below for ready reference:-

Durga Prasad Singh & Ors. Vs The State of Bihar & Ors.: Civil Appeal No(s) 6178-6181 of 2015 the Apex Court has considered the issue as to the benefit available to the demonstrators. While upholding the amendment, the Apex Court passed the following order:-

“We have heard learned counsel for the parties at great length. These appeals arise out of challenge to the Bihar State Universities (Amendment and Validation) Act, 2012 (Bihar Act 22 of 2012) which has been upheld by the High Court by the impugned order. We do not find any ground to interfere with the view taken by the High Court in upholding the said Act.

We however make it clear that the present status, rank and pay of the appellants will not be disturbed. If any lab assistant has been given designation of demonstrator, which he continues to hold till date, it will not be withdrawn. They will not be entitled to any further benefits in conflict with the impugned Act.

In view of the above, the appeals are disposed of.

No costs.

Pending applications, if any, shall also stand disposed of.”



8. In view of the decision of the Apex Court which has protected the interests of all the Demonstrators who were granted the benefit of Demonstrators notwithstanding the amendment of definition of teachers, the Court does not find any substance in the submission of the learned senior counsel appearing on behalf of the University and the counsel of the State.

9. In addition thereto, The Court does not find any justification in post-retiral beech hunting exercise by the University to find fault with the promotion which was granted to the original petitioner when he was in service. Such action of the University is indicative of the arbitrary and malicious exercise of power by the University.

10. The Court has reason to believe that such action was taken by the University when the Vice-Chancellor of the University was called upon to appear in contempt proceeding as such the impugned action is counter blast of personal appearance of Vice-Chancellor in contempt proceeding. The Court does not appreciate such punitive action of reversion after Vice-Chancellor was called upon to appear in a contempt proceeding

11. It is to be noted here that the original petitioner



superannuated on 31.1.2010 and after six long years of superannuation, the action of the University in reverting the petitioner is self explanatory and needs no further material to draw adverse inference.

12. Under the aforesaid circumstance, the Court hereby declares that the entire action of the University is tainted with mala fidy and without jurisdiction and such action cannot be justified. The respondent-University is hereby directed to work out the entitlement of the original petitioner as Demonstrator and ensure payment of entire dues as Demonstrator to the substituted petitioner within a maximum period of four months from the date of receipt/production of a copy of this order.

13. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.11.2018
Transmission Date	

