

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18706 of 2012

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Md. Dastagir Khan, Son of Late Sher Mohammad Khan, resident of Mohalla
Khoda Nagar, PS Chhatauni, District East Champaran, Motihari

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Human Resources, New Secretariat, Bihar, Patna
2. The Secretary, Department of Human Resources (Higher Education), New Secretariat, Bihar, Patna
3. The Additional Secretary, Department of Human Resources (Higher Education), New Secretariat, Bihar, Patna
4. Baba Saheb Bhim Rao Ambedkar Bihar University (in short the B R A Bihar University) Muzaffarpur through its Registrar
5. The Vice-Chancellor, B R A Bihar University, Muzaffarpur
6. The Registrar, B R A University, Muzaffarpur
7. The Principal, S N S College, Motihari, District East Champaran at Motihari

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar
For the State	:	Mr. Apurv Harsh, AC to SC 28
For B R A University	:	Mr. D Mukherjee, Sr. Advocate
		Mr. Arup Kumar Chongdar

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 26-10-2018

Heard learned counsel for the petitioner, learned counsel appearing for the State as well as learned counsel representing the respondent-University.

Learned counsel appearing for the petitioner has drawn the attention of this Court to the order passed by this Court contained in Annexure-6, whereby several writ petitions were disposed of by a common order in the light of the judgment of the Apex Court in the case of *Secretary, State of Karnataka vs. Uma*



Devi (3) [(2006) 4 SCC 1]. Pursuant to the said order as contained in Annexure-6 the University has constituted a Committee and the Committee on scrutiny of the materials have found the petitioner working on regular basis as Laboratory Incharge, in the Department of Physics in Sri Narayan Singh College, Motihari from the date of joining on 03.07.1980.

Mr. Sanjay Kumar, learned counsel representing the petitioner has drawn attention of the Court to the Division Bench judgment in CWJC No. 4329 of 1994 dated 24.09.2010, whereby the Division Bench with regard to the same college in the case of Nawal Kishore Singh, whose name figures at Sl. No. 1 in Annexure-7, issued direction for regularization with all consequential benefits in the light of the judgment of the Full Bench in the case of ***Braj Kishore Singh & Ors. v. State of Bihar [1997(1) PLJR 509]***.

On behalf of the University it is admitted that the petitioner is regularly working on the post for last three decades, the only objection is that the petitioner is working against the post which is not sanctioned. The issue was considered by the Full Bench of this Court in the case of ***Braj Kishore Singh*** (supra) and the Full Bench considering the entire scheme of the Bihar State Universities Act held out that post falling in the staffing pattern



shall be deemed to be sanctioned post and issued direction for regularization. Following the judgment of the Full Bench, the State Government has also formulated the scheme as contained in letter no. 1820 dated 17.11.1998. Unfortunately, for nearly four decades the petitioner remained hanging in balance and no decision was taken for regularization of service of the petitioner on the line of the judgment of the Full Bench in ***Braj Kishore Singh***'s case. Noticing the similar fact in Nawal Kishore Singh's case the Division Bench issued direction (Annexure-8) for regularization of service of Nawal Kishore Singh, Lab Incharge in Chemistry Department of the same college, the present writ application is allowed with a direction to the respondents to consider the case of this petitioner for regularization of his service in terms of the judgment of the Full Bench, particularly in view of the litigation policy of the State Government contained in paragraph-4 (c) and the judgment of the Full Bench in the case of ***Anup Kumar Paul vs. B N Mandal University [2018 (2) PLJR 929]***, the respondents are directed to take appropriate decision granting the benefit of regularization to the present writ petitioner like similarly circumstanced Nawal Kishore Singh, Lab Incharge in Chemistry Department of the same college with all consequential benefits



within a maximum period of four months from the date of receipt/production of a copy of this order.

Needless to state that the petitioner has completed 38 years of service and the Apex Court has considered the case for regularization of non-teaching employees who continuously worked for a considerably long period in the case of *Amarkant Rai vs. State of Bihar & Ors. [(2015) 8 SCC 265]*. The case of the petitioner is also required to be considered in the light of the principles laid down by the Supreme Court in the case of *Amarkant Rai* (supra).

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29.10.2018
Transmission Date	N.A.

