

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 749 of 2015

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Suman Kumar Pandey Son of Late Shyam Sunder Pandey, Resident of Village and
P.O. - Mahapur, P.S. - Kauwakol, District – Nawadah.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary Human Resources Development Department
Government of Bihar, Patna Vikash Bhawan, Patna.
3. The Director, Primary Education Human Resources Development Department
Government of Bihar, Patna Vikash Bhawan, Patna.
4. The District Magistrate Nawadah.
5. The District Establishment Committee Nawadah District Nawadah through its
Chairman.
6. The District Education Officer Nawadah District – Nawadah.
7. The District Programme Officer, Nawadah District Nawadah.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suresh Kumar Ishwar, Advocate
For the State : Mr. S. C. Bhaskar, A.C. to G.P. 11

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 04-01-2018

Heard learned counsel for the petitioner and the State.

2. The petitioner has moved the Court basically with the grievance that his promotion to the post of Graduate Trained Teacher has not been considered on the basis of *Sahitya Alankar* degree obtained by him in the year 1991 and has been rejected on the ground that in the year 1993, he has obtained B.Sc. certificate



without seeking permission of the authorities as a regular student.

3. Learned counsel for the petitioner submitted that after having passed the *Sahitya Alankar* examination, he had applied for such promotion but in the meantime, he also obtained the degree of Graduation in the year 1993 and had informed the authorities about the same but instead of considering his claim based on the *Sahitya Alankar* degree, it has wrongly been rejected on the ground of him having obtained the Graduation degree in a later session with the objection that the same was full time and without permission of the competent authority. Learned counsel submitted that the degree of *Sahitya Alankar* obtained prior to the year 1992 has been accepted as valid by the State Government.

4. Learned counsel for the State submitted that if the petitioner had already obtained *Sahitya Alankar* degree in the year 1988, there was no occasion for him to subsequently again clear the Graduation examination, which raises serious doubts with regard to the *Sahitya Alankar* qualification. It was further submitted that the petitioner did not move the Court since 1988 with regard to his claim for promotion and after retirement in January, 2015, has approached the Court for the first time in the year 2015 in the present writ application. Learned counsel submitted that the Rule requires that prior permission be taken from the authorities for pursuing any



higher education and in the present case, the petitioner has obtained his Graduate degree as a full time student, without taking permission or leave and has also drawn full salary, which itself is highly irregular for which he was liable to be proceeded against and also recovery made of the salary drawn by him during that period.

5. Having considered the matter, the Court does not find any merit in the present writ petition. The fact remains that the cause of action of the petitioner accrued to him in the year 1988 but he did not approach the Court within a reasonable period and only after retirement moved the Court in the year 2015. From the records, it transpires that though the year mentioned in the *Sahitya Alankar* degree is 1988 but the certificate and marksheet have been issued in the year 1991, for which there is no explanation. On a query to learned counsel for the petitioner as to the reason for this discrepancy, he submitted that the session was running late. Further, even the marksheet of the B.Sc. (Hons.) examination of Magadh University reveals that it was B.Sc. (Hons.) 1990 Special Examination held in the month of November, 1993. Thus, if the *Sahitya Alankar* course was continuing till the year 1991, the petitioner could not have enrolled himself in the three years Graduation course of the Magadh University for the session 1987-90, as it transpires from the copy of the marksheet of the B.Sc. Maths



(Hons) marksheet of Magadh University dated 12.04.1994. Thus, pursuing two courses at the same time is totally unexplained and clearly impermissible, which gives rise to genuine doubt with regard to the manner in which the petitioner has obtained both the degrees. Moreover, the same are also open to verification with regard to their authenticity and the manner in which they have been procured and also with regard to the institutions from which such courses were pursued. Further, the Court does not find any reasonable or plausible explanation as to why a person would again be compelled to obtain another Graduation degree, and that too, as a full time course for no rhyme or reason and even at the risk of having proceeding drawn against him. The petitioner having superannuated in January, 2015, should now be satisfied with the benefits he has got in terms of his entitlement upon his superannuation. The Court would only indicate here that if the contention of the petitioner is accepted that he applied in terms of the *Sahitya Alankar* degree, of the year 1988, it does not stand to reason as to how and why he would again either apply or make a claim based on a subsequent degree showing him to be a Graduate.

6. In view of the issue involved, where time is of essence, the petitioner not moving before the Court within a reasonable period, matters have to attain finality.



7. Accordingly, both on the ground of delay and laches,
as well as on merits, the writ application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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