

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25011 of 2013

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Kameshwar Narayan Choudhary Son Of Late Kamal Narayan Choudhary
Resident Of Village Lagma Ram Bahadurpur, Police Station - Sakatpur,
District - Darbhanga

... .. Petitioner/s

Versus

1. The Magadh University, Through Its Registrar
2. The Vice Chancellor, Magadh University, Bodh Gaya, District - Gaya
3. The Registrar, Magadh University, Bodh Gaya, District - Gaya
4. The Finance Officer, Magadh University, Bodh Gaya, District - Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Virendra Prasad, Advocate
For the Respondent/s	:	Mr. Hansraj, Advocate
For the University	:	Dr. Kumar Amitesh Chandra, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 13-09-2018 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

The grievance of the petitioner in the present writ application is non-consideration of his case for grant of time bound promotion/ACP as the petitioner was not granted any regular promotion.

He referred to judgment of the Apex Court in the case of **State of Tripura vs. K.K. Roy reported in 2004(9) SC 65** that the employer must provide opportunity of two promotions during the service career. Referring to the aforesaid judgment, he submits that petitioner is entitled to grant either time bound promotion or ACP in the event the petitioner is not granted



regular promotion. The scheme of time bound promotion and ACP was coined to provide personal promotion or financial up-gradation on account of stagnation due to unavailability of promotional avenues and promotion.

Learned counsel for the petitioner has also relied upon the judgment of the Apex Court in the case of **State of Bihar vs. Sunny Prakash (2013)3 SCC 559** wherein the Apex Court has issued direction to the University and State to provide similar benefit like the State Government employee to the University employees in terms of the agreement between State Government and Federation of the Employees.

Referring to the aforesaid judgment of the Apex Court, he submits that petitioner was denied the benefit of time bound promotion/ACP and the action of the respondents is per se illegal and arbitrary and also against the principle law laid down by the Apex Court in the case of State of Tripura Vs KK (Supra) and the judgment of the Apex Court in State of Bihar Vs. Sunny (Supra). He also referred to Annexure-2 to contend that in the case of similarly circumstanced the coordinate bench of this Court has issued direction to the respondents to consider the case and following the same, the respondents have issued Annexure-3 whereby they granted such benefit to similarly



circumstanced other employees in the same University.

Considering the totality of the facts situation, the writ petition is disposed of with direction to the University to take appropriate decision for grant of time bound promotion/ACP and pass appropriate order with regard to claim of the petitioner within a maximum period of four months from the date of receipt/production of a copy of this order.

In the event, the respondents admit the entitlement of the petitioner for grant of time bound promotion/ACP, necessary direction for consequential benefit may also be issued. In the event, the respondent distinguish the case of the petitioner on fact and law, the respondents are required to assign reason for rejecting the claim of the petitioner.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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