

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1290 of 2018

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1. Chandrashekhar Prasad, Son of Late Jato Singh, Village- Eknar, P.O.-Dhanwa, P.S.-Hisua, District-Nawada.
 2. Uday Kumar Suingh, Son of Late Kamta Prasad Singh, Village- Daulatpur, P.O.-Salempur, P.S.-Alipur, District-Gaya
 3. Manoj Kumar, Son of Kamta Singh, Village + P.O.-Barauhna, P.S.- Hisua, District-Nawada.
 4. Dharendra Kumar, Son of Shri Rameshwar Singh, Village + P.O.-Mano. P.S.- Surajgarha, District- Munger.
 5. Jaishankar Kumar, Son of Ram Padarath Singh, Village + Jhakaur, P.S.- Barahiya, District-Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Higher Education Govt. of Bihar, Patna.
4. Magadh University, Bodh Gaya through its Registrar.
5. The Vice-Chancellor, Magadh University, Bodh Gaya.
6. The Registrar, Magadh University, Bodh Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh, Advocate
For the Respondent/s : Mr. Madhaw Prasad Yadav -Gp23

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 18-07-2018

Heard Sunil Kumar Singh learned counsel for the
petitioners, State as well as University.

The name of the petitioners figure in the list of 25
(C). It appears that a controversy arose as to the post on which the
petitioners were working and the case of the petitioners were not
considered on the ground that the recommendation was not pending at
the level of State Government.

Learned counsel submits that the petitioners, whose



names figure in 25(C) were considered by the University and in the light of judgment of the Apex Court in the case of **State of Bihar & Ors. Vs. Bihar Rajya M.S.E.S.K.K. Mahasangh & Ors.**, reported in **(2005) 9 SCC 129** they were absorbed. Later on, issue was raised as to non-availability of post either in the sanctioned category or recommended category.

Mr. Singh has drawn the attention of this Court to the information furnished by the University under Right to Information Act, which indicates that the University has recommended the case for creation of post on 19.03.1986. Mr. Singh submits that in view of the aforesaid, the posts have been deemed to be in the category of recommended post and as such the rub on the point of availability of post is non-est.

Mr. Shivendra Kishore, learned senior counsel appearing on behalf of the University, on instruction admitted this factual post that the petitioners were appointed against the post, which was recommended by the Magadh University for sanction on 19.03.1986, which is prior to the cut off date i.e. 30th April 1986. In view of the above, the Court does not find any impediment in considering the case of the petitioners for absorption.

Accordingly, the writ application is allowed. The order reviewing the absorption of the petitioners is hereby declared s



nullity.

The respondent University is directed to restore the petitioners the status of absorbed employees with all consequential benefits 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 disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04.08.2018
Transmission Date	

