

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.477 of 2016**

**In**  
**Civil Writ Jurisdiction Case No.18733 of 2013**

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Dr. Pradeep Kumar Son of Late R.K. P. Barial, resident of Road No. 5,  
Rajendra Nagar, Police Station Kadam Kuan, and District- Patna

... .. Appellant/s

Versus

1. Dr. Samir Kumar Sharma, son of Shri Shio Sahay Sharma, Associate Professor of English, Bihar National College, Patna, 102, Madhukunj Apartment, Opposite Forest Department, Nehru Nagar, Patliputra, Patna- 800013
2. The State of Bihar, through the Principal Secretary, Higher Education, New Secretariat, Govt. of Bihar, Patna
3. Dr. Arun Kumar Sinha, Acting Vice Chancellor, Patna University, Patna
4. The Registrar, Patna University, Patna
5. The Deputy Registrar, Patna University, Patna
6. Anil Kumar Verma, son of late Chamanlal, Resident of C204, Charminar Apartment, Road No. 22, Rajendra Nagar, Patna- 800016
7. Prabhakar Jha, son of Late Diwakar Jha, C101, Charminar Apartment, Road No. 12, Rajendra Nagar, Patna- 800016
8. Ranbir Nandan, Reasearch Officer, B.N. College, Patna

... .. Respondent/s

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with  
**Letters Patent Appeal No. 715 of 2016**  
**In**  
**Civil Writ Jurisdiction Case No.18733 of 2013**

=====

Ranbir Nandan, Research Officer, B.N. College, Patna.

... .. Appellant/s

Versus

1. Dr. Samir Kumar Sharma Son of Sri Shio Sahay Sharma Associate Professor of English, Bihar National College, Patna , 102, Madhu Kunj Apartment, Opp. Forest Department, Nehru Nagar, Patliputra, Patna - 800013.



2. The State of Bihar, through the Principal Secretary Higher Education, New Secretariat, Govt. of Bihar, Patna.
3. Dr. Arun Kumar Sinha, Acting Vice-Chancellor, Patna University, Patna.
4. The Registrar, Patna University, Patna.
5. The Deputy Registrar, Patna University, Patna.
6. Dr. Pradip Kumar, Professor, Sociology Department, Patna University, Patna.
7. Anil Kumar Verma son of late Chamanlal resident of C-204, Charminar Apartment, Road No. 12, Rajendra Nagar, Patna - 800016.
8. Prabhakar Jha son of late Diwakar Jha C - 101, Charminar Apartment, Road No. 12, Rajendra Nagar, Patna - 800016.

... .. Respondent/s

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with  
**Letters Patent Appeal No. 1106 of 2017**  
**In**  
**Civil Writ Jurisdiction Case No.18733 of 2013**

=====

1. Anil Kumar Verma son of late Chamanlal resident of C - 204, Charminar Apartment, Road No. 12, Rajendra Nagar, Patna - 800016.
2. Prabhakar Jha son of late Diwakar Jha C - 101, Charminar Apartment, Road No. 12, Rajendra Nagar, Patna - 800016.

... .. Appellant/s

Versus

1. Dr. Samir Kumar Sharma Son of Sri Sheo Sahay Sharma Associate Professor English, Bihar National College, Patna, 102, Madhu Kunj Apartment, Opp. Forest Department, Nehru Nagar, Patliputra, Patna - 800013.
2. The State of Bihar through the Principal Secretary Higher Education, New Secretariat, Govt. of Bihar, Patna.
3. Dr. Arun Kumar Sinha, Acting Vice-Chancellor, Patna University, Patna.
4. The Registrar, Patna University, Patna.
5. The Deputy Registrar, Patna University, Patna.
6. Dr. Pradip Kumar, Professor, Sociology Department, Patna University, Patna.
7. Ranbir Nandan, Research Officer, B.N. College, Patna.

... .. Respondent/s

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**Appearance :**

(In Letters Patent Appeal No. 477 of 2016)

For the Appellant/s : Mr. Rajeev Kumar Verma, Sr. Advocate  
Mr. Utsav Kumar, Advocate

For the State : Mr. Apurva Kumar, Advocate  
Mr. Ashutosh Ranjan Pandey- A.A.G. 15



For Patna University : Mr. Md. Nadim Seraj, Advocate  
Respondent/s 1 : Mr. Manish, Advocate  
Mr. Kumar Kaushik, Advocate  
Mrs. Namrata Dubey, Advocate  
(In Letters Patent Appeal No. 715 of 2016)  
For the Appellant/s : Mr. Abhinav Srivastava, Advocate  
For the State : Mr. Vinay Kirti Singh, G.A. 3  
For Patna University : Mr. Md. Nadim Seraj, Advocate  
Respondent/s 1 : Mr. Manish, Advocate  
Mr. Kumar Kaushik, Advocate  
Mrs. Namrata Dubey, Advocate  
(In Letters Patent Appeal No. 1106 of 2017)  
For the Appellant/s : Mr. Abhinav Srivastava, Advocate  
For the State : Mr. Ashutosh Ranjan Pandey, A.A.G. 15  
For Patna University : Mr. Md. Nadim Seraj, Advocate  
Respondent/s 1 : Mr. Manish, Advocate  
Mr. Kumar Kaushik, Advocate  
Mrs. Namrata Dubey, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE JYOTI SARAN**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 27-11-2018**

These appeals assail the judgment of the learned Single Judge dated 30<sup>th</sup> November, 2015 in a dispute that arose on account of certain promotions having been made by Dr. Arun Kumar Sinha in various departments of the Patna University while acting as a Vice Chancellor on a purely temporary arrangement, appointed under the orders of His Excellency The Governor of Bihar exercising powers as the Chancellor of the University. The promotions made by him by one stroke of pen on 4.5.2013 and again on 31.10.2013 including that of the present appellants have been found to be invalid by the learned Single Judge.



2. At the very outset, it would be pertinent to place on record that the appointment of Vice Chancellors and Pro-Vice Chancellors through the State of Bihar in various Universities governed by the provisions of the Bihar State Universities Act, 1976 came under the direct scrutiny of this Court in a challenge having been raised to the appointments on the said posts contending that the Chancellor, namely the Governor of the State, did not proceed to make the appointments after appropriate consultation with the State Government, thereby violating the procedure prescribed under the 1976 Act and, consequently, all such appointments were vitiated. One of the persons who had challenged the said appointments also claimed his own consideration, which appears to have been denied. Consequently, the petitioner therein, aggrieved by this part, approached the Apex Court and the State of Bihar assailed the judgment of the High Court contending that the appointment of the Vice Chancellors and the Pro-Vice Chancellors were in accordance with law. The Apex Court, on a scrutiny of the judgements of this Court, proceeded to hold that the appointment of the Vice Chancellors and the Pro-Vice Chancellors of different Universities were illegal, and quashed the same with a direction to the Chancellor to proceed to make appointments after effective and meaningful consultation with the



State Government. The said judgment of the Apex Court is reported in (2013) 16 SCC 206 Ram Tawakya Singh vs. State of Bihar & Ors. While finally disposing of all the appeals, the following direction was given in paragraph 47.5 of the reported judgment extracted hereinbelow:-

“47.5. The persons who are currently holding charge of the offices of Vice-Chancellors and Pro-Vice-Chancellors shall continue to discharge the duties of their respective offices till the joining of new appointees.”

3. The aforesaid judgment of the Apex Court was rendered on 19<sup>th</sup> of August, 2013 and during the pendency of the appeal, interim orders were passed by the Apex Court on 18.03.2013, 16.04.2013 and 23.04.2013 for making a stop-gap arrangement on the posts of Vice Chancellors and Pro-Vice Chancellors. The said interim orders have been extracted in paragraph 46 of the impugned judgment. It is by virtue of the aforesaid interim direction, which finally culminated into the order quoted above, that Dr. Arun Kumar Sinha, who was a Professor in Statistics in the same University, was given charge of the Vice Chancellor and Dr. Sudipto Adhikari, another Professor of the same University in the subject of Geography, was appointed as the Pro-Vice Chancellor on a pure temporary arrangement basis vide order dated 26.04.2013. The said background has to be mentioned



because the appointment of the then Vice Chancellor Dr. Shambhu Prasad Singh was quashed by the Apex Court in the aforesaid judgment holding it to be invalid.

4. It is in this backdrop that Dr. Arun Kumar Sinha in his status and capacity as Acting Vice-Chancellor proceeded to issue orders of promotion which include the promotion orders of all the four appellants before this Court. Consequential promotions as Associate Professors also came within the scrutiny of the Learned Single Judge while the writ petition proceeded with facts trickling down relating to the alleged nefarious activities resulting in invalid promotions.

5. It also deserves mention that the respondent petitioner Dr. Sameer Kumar Sharma filed C.W.J.C.No. 18733 of 2013, giving rise to all these three appeals, where he narrated the illegality in the promotional appointment of appellant Dr. Pradeep Kumar in the department of Sociology, but his main relief was for a direction to consider and grant him promotion as a full-time Professor of English in the Patna University which was long overdue since 2011. Thus, the basic claim of the respondent petitioner Dr. Sharma was his non-consideration and withholding of benefits of promotion as a Professor in English. But at the same time, the foundation of this claim was sought to be supported with



the submission that promotions were given to ineligible persons including Dr. Pradeep Kumar. The learned Single Judge entertained the writ petition and vide order dated 31<sup>st</sup> October, 2013 impleaded Dr. Pradeep Kumar as Respondent No. 5. With further disclosure of facts and the promotion orders passed on 31<sup>st</sup> October, 2013 in respect of 66 other teachers, the other 3 appellants Dr. Anil Kumar Verma, Mr. Prabhakar Jha (Appellants in L.P.A. No. 1106 of 2017) and Dr. Ranbir Nandan (Appellant in L.P.A. No. 715 of 2016) came to be impleaded as Respondent Nos. 6, 7 and 8 respectively in the writ petition on 20.11.2013 and 20.12.2013. This is how all the four appellants before us were represented before the learned Single Judge and who contested the writ petition. To complete the description of these appellants, Dr. Pradeep Kumar, who was working as a Research Officer having been initially appointed on compassionate basis, was extended the benefit of promotion as a Reader in the department of Sociology with effect from 25.04.1995 vide order dated 04.05.2013. He was further designated within a span of four months as an Associate Professor on 6<sup>th</sup> of September, 2013 by the same Acting Vice-Chancellor. Dr. Anil Kumar Verma, who was a Lecturer in the Department of Physics, was extended the benefit of promotion as a Reader vide order dated 31<sup>st</sup> October, 2013. Mr. Prabhakar Jha,



working in the Department of PMIR, claiming himself to be a Lecturer in the Labour and Social Welfare Department, was extended the benefit of promotion as a Reader on 25<sup>th</sup> July, 2013 with effect from 23<sup>rd</sup> December, 1994. Dr. Ranbir Nandan, who was a Research Officer, similarly placed as Dr. Pradeep Kumar, was promoted as a Reader in the department of Geology on 25<sup>th</sup> July, 2013 with effect from 2<sup>nd</sup> of July, 2001 and then was given the designation of Associate Professor on 6<sup>th</sup> of September, 2013 with effect from 1<sup>st</sup> of January, 2006.

6. The writ petition proceeded before the learned Single Judge and vide interim orders passed from time to time, affidavits were called for from the University as also from the office of His Excellency The Chancellor whereafter the impugned judgment was delivered on 30<sup>th</sup> of November, 2015. The Division Bench which entertained these appeals, initially issued an order on 4<sup>th</sup> September, 2017 for the production of records. On 20<sup>th</sup> September, 2017, the Division Bench passed the following order:-

“In terms of the previous direction, two charts have been tendered to the Court. Let it be shared with other litigants to the three L.P.As. A counter affidavit on behalf of Respondent No. 1 of L.P.A. No. 477 of 2016 has also been served and filed where more details of people, who have been granted promotion during the same time frame, has been brought on record. The University would



be well advised to prepare a chart accordingly even with regard to those cases.

Keeping in mind the prayer made on behalf of the University that there are a series of holidays coupled with the centenary celebration, which is also on of the University, the Court would like to fix 31<sup>st</sup> of October, 2017 as the next date for assistance.

Counsel for the Chancellor is also directed to seek necessary input as to what His Excellency would like to do keeping in mind the observation of the Single Judge with regard to an enquiry or re-look into the whole exercise of grant of promotions by the acting Vice Chancellor which prima facie does not seem to be above board even in the finding of the three member committee headed by a ret'd. Judge of the High Court.

List accordingly.”

7. The aforesaid directions were further supplemented by another order passed by the Division Bench on 31<sup>st</sup> of October, 2017, which is extracted hereinbelow:-

“Having given anxious consideration to the various submissions made by the parties and having perused the impugned judgment dated 30.11.2015 passed in CWJC No. 18733 of 2013 and the additional affidavits and materials, which have been provided by the Patna University to the Court, including the three member committee report, which has been tendered, we have no hesitation, prima facie, in reaching a conclusion that the manner in which large scale promotions have been granted to the teachers on the post of Readers/Professors has not been done in terms of the norms and the rules. What was the compulsion or the force behind such rushed decisions taken by the then officiating Vice Chancellor is not required to be discovered but obviously, there were reasons why those



decisions were rushed through by a Vice Chancellor, who was in an ad hoc arrangement and was directed by courts to only perform routine day to day business. In some of the appeals, which were subsequently preferred and tagged along with the present case, the grant of such benefit of promotion is subject in the eye of law.

But now that the present Vice Chancellor and the Registrar of the University are willing to redeem the prestige of the Patna University in the 100<sup>th</sup> year of their existence, by revisiting the decisions de novo objectively, dispassionately and with due honesty without succumbing to any pulls and pressures of the powers that be, the Court is inclined to give them an opportunity to test the bona fide of their submission made today that they will review all the promotions granted to the teachers in question in conformity with the norms and the rules. Any wrong decision naturally will be annulled and the honest decisions, which have already been taken, shall remain and continue to be operative.

Since there are certain teachers, who made a grievance that their case was not fairly and objectively considered and they were kept out of the zone of consideration for other reasons, it is left open to such teachers to approach the Vice Chancellor of the University and even their cases will be considered and those cases are cases, which have arisen before this Court or were under consideration of this Court, but it will not amount to opening of a flood gate for every kind of claimants, who may awaken now to assert their rights.

The Registrar, who is present in persons, assures the Court that the exercise in this regard will not be an endless exercise like an inquiry commission but will be expedited and concluded within a reasonable period and for which, he prayed for six months.

The Court is not willing to give them time of six months but would grant four months keeping in view that the University authorities are also preoccupied due to ongoing



centenary celebration. The time frame indicated by the Court must be kept in mind and effort has to be made both by the Vice Chancellor and the Registrar to expedite the review process and reach conclusions and submit report in this regard by the next date.

Matter will come up on 12<sup>th</sup> of March, 2018.”

8. In terms of the aforesaid directions, the new Vice Chancellor who took over, submitted a report on 10<sup>th</sup> of March, 2018 before this Court which runs in 33 pages and relates to the scanning of the status of appointment/promotions of 142 teachers.

9. It appears that the matter had also been taken up by His Excellency The Chancellor in terms of the hope expressed by the learned Single Judge. The matter came up before another Bench on 5<sup>th</sup> of November, 2018 where directions were issued to put up the case for further hearing and, ultimately, the arguments concluded before us on 20<sup>th</sup> of November, 2018.

10. The argument on behalf of the appellants was led by learned Senior Counsel Shri Rajiv Kumar Verma, and the other counsel in the two appeals adopted the same arguments, in response where to learned Counsel for the University, Mr. Nadim Seraj, advanced his submissions that was further supplemented by the learned Counsel for the State.

11. Shri Verma, learned Senior Counsel on behalf of the appellants, urged that the respondent petitioner Dr. Sameer Kumar



Sharma had no locus to maintain the petition. Secondly, he being a claimant for the post of Professor in English and aggrieved only by his non-consideration of promotion, could not have any possible grievance with regard to the promotion of any of the appellants and in the absence of any clash of interest, Shri Verma contends that the relief of the respondent/petitioner for promotion can always be considered by the University independently with regard to which the appellants at this stage would have no objections. Thirdly, he contends that, as a matter of fact, the exercise for promotion in the case of Dr. Pradeep Kumar had been undertaken long before the Acting Vice-Chancellor took over on 26<sup>th</sup> April, 2013, and, therefore, no mala fides can be attributed to the consequential promotion order which was an outcome of the exercise undertaken by the earlier Vice Chancellor and the Syndicate. He, therefore, submits that on this ground also the learned Single Judge has committed an error in proceeding to annul the appointments which were not even subject matter of the original dispute. Fourthly, he submits that the description of a Lecturer contained in Section 2(o) of the Patna University Act, 1976 read with Section 2(r) thereof, a Research Officer as in the case of the appellant Dr. Pradeep Kumar and Dr. Ranbir Nandan, falls within the definition of the word "Teacher" and is equivalent



to that of a Lecturer. To substantiate this submission, the attention of this Court has been invited to Ordinance No. 19 of the University Grants Commission and also to the D.O. letter dated 16<sup>th</sup> February, 1985 to contend that the learned Single Judge having failed to notice the same has arrived at an incorrect conclusion about the status of Research Officers being not equivalent to that of Lecturers. The judgments which were cited before the learned Single Judge have also been placed before us including the judgments in the case of Dr. Ranjan Kumar Sinha & anr. Vs. Collector, Tilka Manjhi Bhagalpur University & ors. (M.J.C. No. 82 of 2007).

12. It is, therefore, urged by Shri Verma and the other learned Counsel for the appellants that the learned Single Judge ought not to have embarked upon an enquiry nor the Division Bench earlier hearing this matter should have allowed any review of the promotions already made which did not suffer from any such invalidity as held by the learned Single Judge or reflected in the reports that were obtained during the pendency of these appeals. It is, therefore, submitted that none of the promotions of the appellants suffer from any such illegality. Hence, the impugned judgment, which adversely affects the appellants, deserves to be set aside.



13. An additional argument has been made by the learned counsel for the appellants that such promotions were made earlier in respect of other posts where the original incumbent initially had not been appointed as a Lecturer yet such promotions still continue to subsist and, as a matter of fact, one of them Dr. Akhileshwar Tiwari continues in the University on account of such a promotion and is even the Head of his Department. Another such incumbent is Dr. Rajendra Pati Tripathi. In view of this, the denial of promotion to the appellants would be discriminatory, which aspect has not been considered by the learned Single Judge.

14. We have considered the submissions raised and we find that the learned Single Judge by making an extensive effort has ultimately found the promotion orders to be severely tainted on account of patent illegalities, particularly with regard to extending of benefits of promotion to those who were not within the cadre of Lecturers. In this regard, the claim of Dr. Pradeep Kumar and Dr. Ranbir Nandan are illustrating examples as they were initially appointed as Research Officers on posts sanctioned through Government Orders by the State Government. They were never included within the cadre of Lecturers nor were they appointed substantively as Lecturers. The learned Single Judge has extensively quoted the provisions of the Merit Promotion Scheme



wherein promotion to the posts of Reader has to be filled up from the feeder cadre of the substantially appointed Lecturers under the Statutes of the University.

15. We find no error in the findings recorded by the learned Single Judge on this count, inasmuch as, the definition of the word “Teacher” as occurring under the 1976 Act and the description of the teaching posts nowhere includes Research Officers equivalent to Lecturers. Thus, where promotion is made under a specific scheme and the Statutes whereof categorically define the feeder cadre, the learned Single Judge was absolutely correct in holding that the Statute cannot be supplemented by addition of any words in the absence of any ambiguity. The Merit Promotion Statutes that have been considered by the learned Single Judge and are extracted therein nowhere allows promotion under the Merit Promotion Scheme to a Research Officer. It may not be irrelevant to mention that previously, Research Officers were Grade-III employees, but in a dispute raised with regard to their pay-scale, this Court in a Full Bench judgment reported in 1985 P.L.J.R. 77 (F.B.), (Kamla Kant Roy & Ors. Vs. State of Bihar & Ors.) held that they were entitled to the same pay-scale as Lecturers, but the said judgment nowhere declares equivalence in favour of the Research Officers as Lecturers nor was it a case



relating to the provisions of the Merit Promotion Scheme. To the contrary, the judgments which have been referred to by the learned counsel for the appellants and noted hereinabove, did not declare any such equivalence nor does any statutory provision exist to extend any such benefit.

16. In this regard, the appellants have relied on the grant of pay-scale under the Government Order dated 7<sup>th</sup> August, 2000. A perusal thereof would indicate that the same was in relation to the Time-Bound Promotion Scheme for extending the benefit of a similar pay-scale as that to the Lecturers. The said Government Order again does not acknowledge any promotional benefits under the Merit Promotion Scheme.

17. Coming to Ordinance No. 19, which has been referred to in the written arguments of the 5<sup>th</sup> respondent submitted on 26.09.2014, it is evident that the description of teachers of the Universities has been made inclusive by incorporating the words “such other persons as may be appointed for imparting instruction or conducting research in the Universities or in any College or Institutions maintained by the University and/or designated as teacher by the Ordinance”. The same definition exists in the Bihar State Universities Act, 1976. Reference be had to Section 2 (Explanation) (s) and (v) which are extracted hereinbelow:-



“(s) “Lecturer” means a teacher of a College or University possessing such qualification as may be prescribed by the Statutes;

(v) “Teacher” means person holding the post of only University Professor/Professor, Reader, and Lecturer and such sanctioned posts in the teacher’s grade on the basis of regulations issued by the U.G.C. from time to time:

Provided, that notwithstanding the said substitution in Section 2(v), the action taken in respect of working Demonstrators appointed before 18.09.1975 on the post sanctioned before 1.1.1973 with the concurrence of Bihar Public Service Commission or Bihar State University Service Commission shall not be affected by this substitution.”

18. It is on the strength of the description under the Ordinance that this claim is being raised coupled with the definition and description of the word “Teacher” as contained in the 1976 Act. As noted above, it is evident that the said Ordinance is only with regard to the status of various teaching posts in the University, but it nowhere envisages that the holder of the post of a Research Officer would be entitled to promotion as a Reader which is exclusively governed by the provisions, as in the present case under the Merit Promotion Statute. Thus, no advantage can be availed of by the appellants on that score.

19. The other document on which reliance has been placed by Mr. Verma is a D.O. letter dated 16<sup>th</sup> February, 1985



from the University Grants Commission which is extracted  
hereunder:-

UNIVERSITY GRANT COMMISSION  
NEW DELHI 110002

Prof. S.K. Khanna  
D.F.O.  
Secretary  
D.O.No. F.I. 1`59/84 (WP-I)

Dear Vice-Chancellor,

In letter of even no. dated 12<sup>th</sup> November, 1984, I conveyed to you the decision of the Commission with regard to rationalization of pay scales of academic/technical/scientific staff in computer centres, instrumentation centres, etc. A copy of this letter is enclosed.

The above decision of the Commission is subject to the following:

1. In the case of staff who fulfil the qualifications as prescribed by the UGC for these posts and have been selected through properly constituted selection committees, they may be placed in the rationalized scales of pay as indicated above.
2. In the case of staff who do not fulfill the qualifications as prescribed by the UGC, they may be given the rationalized scale of pay only after the prescribed qualifications have been acquired by incumbents and till such time they may retain present scales of pay.
3. **Wherever the incumbents of the above posts are considered as teachers by the Universities, they may be considered for the Merit Promotion Scheme for the corresponding faculty members.**
4. All these posts may be non-vacation academic posts and normal timings of work/holidays etc. will be as those of the Administrative posts in the Universities. They will also be given all the other benefits like grant of study leave, participation in conference etc. like those given to teachers.
5. The pay fixation formula will be the same as already approved by the Commission for library/physical education staff.

The Commission has since considered the qualifications to be fulfilled for being given the rotationalised scales of pay in respect of certain categories of posts as indicated below:-

- i. For computer/instrument Lan Centres staff, same qualifications as already prescribed by the Commission. The qualifications should also apply to other technical posts/senior or junior scientific officers.
- ii. Staff in correspondence education should have the same qualification as applied to the lecturers/readers/professors in general categories.



iii. For editors/staff in Hindi unit, the universities should maintain comparabilities prescribed for lecturers/readers/professors.

With regard to other categories of posts including posts in Centres of Adult and Continuing Education & further communication unit follow,

This is for your information and necessary action. I would be grateful if this letter is acknowledged.

With regards,

Yours sincerely

Sd/-

20. Clause 3 of the first paragraph has been heavily relied on by Shri Verma to contend that whosoever are the incumbents of the posts referred to therein may be considered for Merit Promotion Scheme. We have carefully perused the aforesaid document and we find that it was in respect of rationalization of the pay-scale of the staff in Computer Centres and Instrumentation Centres engaged on the academic/technical and scientific posts. It appears that the said D.O. letter was issued in relation to the field of developing Computer Science. In our opinion, the said letter does not have any effect, muchless a binding effect so as to construe that Research Officers were entitled to the same benefits particularly in the present case where Dr. Pradeep Kumar is not in any such Department and Dr. Ranbir Nandan is in the Department of Geology.

21. Learned counsel for the appellants has also relied on the approved minutes of the Patna University dated 21.01.1984 recording Resolution No. 62 that is extracted hereinunder:-



“62. Considered the question of changing the designation of Research Officers to that of Lecturer.

Resolved-that resolution of the Academic Council be accepted. The word “Research Associate” be also added.”

22. The said resolution records addition of Research Associates as well. The two appellants Dr. Pradeep Kumar and Dr. Ranbir Nandan have not been able to establish that the University ever designated them as Lecturers before the disputed promotions were made or conferred any such benefit. Their admitted case is that they were appointed as Research Officers. To the contrary, Dr. Pradeep Kumar had been appointed on compassionate basis on 25.04.1987 much after the above quoted resolution, yet Dr. Pradeep Kumar never claimed himself to be a Lecturer upon his appointment in 1987 as a Research Officer. Same is the position of Dr. Ranbir Nandan. Accordingly, the above mentioned resolution is of no avail to these two appellants.

23. The argument that two persons had been continuing to receive benefits of promotion in spite of having been appointed as Research Officers, cannot be countenanced as any illegality being perpetuated either by the University or the State Government cannot be a ground to invoke parity in illegality. That being not the purpose of protection under Article 14 of the Constitution of India, the argument is unacceptable and any



appointment or promotion in violation of law cannot serve as a lawful precedent.

24. The cases of Dr. Anil Kumar Verma and Mr. Prabhakar Jha stand on a separate factual foundation as they were Lecturers, but not Research Officers while being promoted. Yet the infirmities in their promotions have been reflected in the report of the Vice-Chancellor dated 10.03.2018 and have been noticed by the learned Single Judge in the impugned judgement and has also been indicated in the orders passed in this appeal at the interim stage.

25. In the above background and in view of what has been stated above, we find that the learned Single Judge was fully justified in coming to the conclusions arrived at and further this Court cannot approve of any such unlawful action of the description as detailed by the learned Single Judge so as to put a further premium on illegalities thereby perpetuating the same. This would be against the interest of the University and would certainly amount to a bad precedent in the event the action impugned in the writ petition is interfered with by this Court in the exercise of extraordinary jurisdiction under Article 226 of the Constitution of India.



26. We, therefore, find no valid reason so as to impeach the judgment of the learned Single Judge or interfere with the proceedings undertaken thereafter during the pendency of these appeals. Consequently, no ground is made out to interfere as the appeals lack merit and are hereby dismissed without prejudice to the rights of the appellants to seek their remedy in the event any further action is taken against them.

**(Amreshwar Pratap Sahi, CJ)**

**( Jyoti Saran, J)**

K.C.Jha/-

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