

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6561 of 2018

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Rameshwar Prasad, Son of Late Radhe Prasad Saho, Resident of Mohalla- Club Road, P.S.- Town, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Human Resources Development Department, Government of Bihar, Patna.
2. The Principal Secretary, Department of Human Resource Development Department, Government of Bihar, Patna.
3. The Vice Chancellor, Magadh University, Bodh Gaya, Gaya.
4. The Magadh University, through the Registrar, Bodh Gaya, Gaya.
5. Vijay Shankar Srivastav (Lecturer), Department of History.
6. Sunil Kumar Singh (Lecturer), Department of History.
7. Jagdish Yadav (Lecturer), Department of History.

Respondent Nos. 5, 6, and 7 are working in Ramlakhan Singh Yadav College, Aurangabad, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sujeet Kumar Sinha, Advocate

For the Respondent/s : Mr. A. R. Pandey, AAG15

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 18-07-2018

Heard learned counsel for the petitioner and the respondents.

2. Petitioner of the instant writ application was the lecturer appointed in the erstwhile affiliated college.

3. The petitioner was appointed as Lecturer. Thereafter the service of the petitioner was regularized but with condition that payment would be made after release of fund. The case of the petitioner was considered by the Magadh University in the light of the report of Justice S. C. Agrawal Commission, which is quoted



herein below:

“Another question that arises is as to the date from which the period of four years for improving the qualification should be counted. On behalf of the State Government, it has been urged that the said period of four years should be counted from the date of conversion because absorption of services of teachers has to be with effect from that date or at any rate the said period may be counted with effect from May 9, 1988, the date of the resolution, and only those teachers who have improved their qualifications within the period of four years from these dates can be considered. A perusal of the said resolution dated May 9, 1988, however, shows that it requires a decision regarding absorption of teachers who possess the qualifications prescribed by the University Grants Commission first and thereafter teachers who had secured less than 52.5% marks were permitted to continue on ad hoc basis subject to their attaining the prescribed marks or Ph.D. degree within four years. This shows that the period of four years has to be counted after the absorption of the teachers possessing the qualifications prescribed by the University Grants Commission. Since no final order for absorption has been passed in respect of any teacher the said period of four years for improving the qualifications has not commenced and the matter of absorption has to



be considered now. In the circumstances, teachers who have improved their qualifications by obtaining the qualifications of the prescribed marks of 52.5% in the Post-Graduate degree examination or have obtained Ph.D. degree can be considered for the purpose of absorption.”

4. Justice S.C. Agrawal Commission has the occasion to examine the eligibility of the candidate for the purpose of absorption. Justice S.C. Agrawal Commission has also the occasion to examine the Governmental decision whereby opportunity was provided for improvement of the qualification within four years from the date of absorption.

5. Learned counsel appearing on behalf of the petitioner submits that in view of the decision of the Government and the discussion of the Justice S.C. Agrawal Commission the incumbent, who has obtained the Ph.D. degree within the time extended are eligible for absorption and reviewing the order of absorption in the instant case is illegal.

6. In view of the decision of this Court in C.W.J.C. No. 17670 of 2017 dated 17.07.2018, the Court holds that the decision of the University reviewing the absorption of the petitioner is nullity and as such the respondent University is directed to restore the petitioner the status of absorbed employee with all consequential benefits. Necessary decision in this regard must be taken by the



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

7. With the aforesaid, both the writ application stand disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.08.2018
Transmission Date	

