

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1345 of 2018

In
Civil Writ Jurisdiction Case No.2818 of 2015

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Shailendra Kumar Sinha, son of Sri Bindeshwari Prasad, resident of mohalla – 4M/27, Bahadurpur Housing Colony, Police Station - Agam Kuan, District - Patna.

... .. Appellant/s

Versus

1. The Magadh University through its Registrar, Bodh Gaya, District Gaya.
2. The Vice Chancellor, Magadh University, Bodh Gaya, District Gaya
3. The Registrar, Magadh University, Bodh Gaya, District Gaya
4. The University Engineer, Magadh University, Bodh Gaya, District Gaya
5. The Finance Officer, Magadh University Bodh Gaya, District- Gaya.
6. The Managing Director, Jharkhand Police Housing Corporation Ltd., Line Tank Road, Old Police Line, Ranchi-1.

... .. Respondent/s

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Appearance :

For the Appellant	:	Mr. Sanjay Kumar Sharma, Advocate
For the University	:	Mr. Shivendra Kishore, Sr. Advocate
		Mr. Ritesh Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-12-2018

Heard Shri Sanjay Kumar Sharma, learned counsel for the appellant and Shri Shivendra Kishore, learned Senior Counsel for the respondent-University.

The challenge raised is to the judgment of the learned Single Judge and while raising a challenge to the factual premise of the judgment, a supplementary affidavit has been relied on by the learned counsel for the appellant bringing on record certain documents which were not part of the record of



the writ petition. The contention of the learned counsel for the appellant is that the Office Order dated 28th of May, 1990 issued by the Registrar of the University clearly establishes that the services of the appellant had been regularized in the University that was earlier on work-charge basis. Learned counsel on the strength thereof is questioning the correctness of the conclusion of the learned Single Judge.

Shri Kishore, learned Senior Counsel for the University, submits that the records were perused by the learned Single Judge and it has been categorically recorded that nothing was borne out from the records as alleged and further the appellant could not have been either sent on deputation or repatriated as claimed by him as he was neither appointed on a substantive post nor was there a post in existence of Junior Engineer against which a lien could be claimed by him.

Responding to the same, learned counsel for the appellant submits that if the University itself had advertised the post and had taken the services of the appellant, then there is no occasion for raising any such factual dispute about the status of the employment of the appellant.

Having considered the submissions raised, we are unable to accept the aforesaid contention raised on behalf of the



appellant primarily for the reason that none of the documents which have been introduced through a supplementary affidavit in this appeal were part of the records of the writ petition.

In such circumstances, learned counsel for the University is right in his submission that if the appellant is able to establish any ground for review pointing out any error or mistake then in that event, he has to file a review application before the learned Single Judge himself and the judgment cannot be questioned on the grounds so raised in this appeal.

We accept the said argument of the learned counsel for the respondent-University without prejudice to the rights of the appellant to avail of the appropriate remedy.

Consigned to records with the said observations.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Saif/-

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Transmission Date	

