

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1213 of 2015

In

Civil Writ Jurisdiction Case No.4841 of 2015

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Mohan Tanti, S/o Late Ramdhari Tanti, a permanent resident of village-
Chakman Singh, P.O.- Jamalpur, District- Munger, Bihar, presently residing at
Q. No.- Old- C-1-15, RAU Campus, Pusa, P.S.- Pusa, District- Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar through the Agriculture Production Commissioner, Govt. of Bihar, Patna.
2. The Rajendra Agriculture University through its Resident having officer at Pusa, Samastipur.
3. The Vice-Chancellor, RAU, Pusa, Samastipur.
4. The Director, Administration, RAU, Pusa, Samastipur.
5. The Director, SRI, Pusa, Samastipur.
6. Dr. Rajendra Prasad Central Agricultural University through Registrar, having office at Pusa, Samastipur.
7. Sudhir Paswan, s/o Late Bakhori Paswan, r/o village- Bahadurpur, P.O. Sartha, District- Nalanda, presently posted as Junior Scientist-cum-Assistant Professor, Sugarcane Research Institute of Dr.R.P.C.A.U, Pusa, Samastipur-848125.
8. Pradeep Kumar Ravi, s/o Sri Dudh Nalhi Ram, r/o Pachbehia, P.O- Kaslita, P.S. Assawan, District- Siwan, presently posted as Junior Scientist cum Assistant Professor, Dept of Animal Husbandry, Dr. Rajendra Prasad Central Agricultural University (Dr. R.P.C.A.U.) Pusa, Samastipur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sri Niwas Jha, Adv.
For the Respondent-State:		Mr. Prashant Pratap, GP-6
For Respondent nod.2 to 5:		Mr. Devendra Kumar Sinha, Sr. Advocate
		Mr. Arvind Ujjwal, Adv.
For the Respondent 7 & 8:		Mr. Sanjay Kumar Giri, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 08-04-2019

Heard Mr. Sri Niwas Jha, learned counsel appearing for
the appellant, Mr. Devendra Kumar Sinha, learned senior



counsel appearing for the University along with Mr. Arvind Ujjawal, the Advocate on Record and Mr. Sanjay Kumar Giri, learned counsel appearing for the respondent no. 7 and 8.

This letters patent appeal arises from a judgment and order passed by a learned Single Judge of this Court dated 10.04.2015 in CWJC No.4841 of 2015, whereby the writ petition was dismissed in reference to an opinion expressed by the learned Single Judge in a case arising from CWJC No.5768 of 2014 (**Rakesh Kumar Prasad Vs Bihar Agricultural University, Sabour**).

The counter affidavit filed on behalf of the University confirms that the judgment of the learned Single Judge in the case of **Rakesh Kumar Prasad** (supra) has also been affirmed by the Division Bench when the letters patent appeal bearing LPA No.327 of 2016 filed by the said writ petitioner was dismissed as infructuous by the Division Bench on 16.02.2017.

The issue is in rather limited compass. The appellant-writ petitioner was appointed as a Junior Scientist-cum-Assistant Professor vide notification no.154 dated 06.11.2007, which inter alia, required the petitioner to clear the National Eligibility Test ('NET') examination within a period of 3 years of his appointment. The stipulation was modified through



notification no.304 dated 16.11.2009 enhancing the period to 5 years.

The records transpire that though the petitioner was appointed on 06.11.2007 and in terms of the notification dated 16.11.2009 should have cleared his 'NET' examination by the year 2012 but he failed to do so and it is since the order of appointment itself was conditional that by the order impugned bearing no.489 dated 10.11.2012 his services were terminated.

Mr. Jha, learned counsel appearing for the petitioner tried to espouse the case of the appellant-writ petitioner by submitting that while the appointment order of the appellant-writ petitioner carried such stipulations, some similarly situated appointees did not carry such stipulation nor have been removed but on query made from Mr. Jha, he has not been able to place on record a single appointment of the nature as of the appellant-writ petitioner.

It is not in dispute that the appellant-writ petitioner was appointed as a teacher and the stipulations present in the appointment order required him to clear the 'NET' examination which he has failed to do so. The issue has been deliberated before this Court in the case of **Rakesh Kumar Prasad** and similar claim has been rejected.



In view of the legal position so settled as well as the fact that it is the appellant-writ petitioner himself to be entirely blamed for the termination order in failing to secure clearance in the ‘NET’ Examination, we are not persuaded to interfere with the order of the learned Single Judge to dismiss the appeal accordingly.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Anjula/skpathak

AFR/NAFR	NAFR
CAV DATE	NA
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