

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6154 of 2014

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Md. Hasan Khan S/O Late Dastgir Khan, Resident of Village - Akbarpur, P.O. and P.S. Rohtas, District - Rohtas At Present Lecturer, Department of Urdu, Radha Shanta College, Tilauthu, Rohtas

... .. Petitioner/s

Versus

1. The Veer Kunwar Singh University through it's Vice-Chancellor, Veer Kunwar Singh University at Ara.
2. The Registrar, Veer Kunwar Singh University, Ara
3. The Secretary Of Governing Body, Radha Shanta College, Tilauthu, District - Rohtas
4. The Principal, Radha Shanta College Tilauthu, District - Rohtas

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ravi Shankar Sahay, Adv.
For the Respondent-V.K.S.U.: Mr.Arabind Nath Pandey, Adv.
For the Governing Body : Mr. Sunil Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 04-01-2019

The present writ petition has been filed by the petitioner for directing the respondent- authorities to accept re-joining of the petitioner on the post of Urdu Lecturer, on which he has been working since 1989.

2. The brief facts of the case, according to the petitioner, are that the petitioner was appointed as lecturer in Urdu Department in Radha Shanta College, Tilauthu, District Rohtas on the second sanctioned post in the year 1989, i.e. on 12.01.1989, whereafter the petitioner had given his joining on 07.02.1989.

3. It is the further case of the petitioner that the petitioner was working to the satisfaction of all concerned and subsequently, he was appointed as permanent lecturer in the year 1997, however, he fell



seriously ill in the year 2006 and he took medical leave for his treatment, whereupon he was advised to take rest for a long time and his illness continued for a period of about five years. It is stated by the learned counsel for the petitioner that after the petitioner became healthy and recovered from his illness, he filed an application on 23.06.2011 regarding his joining and along with his application, he had also attached medical certificate, however, the joining of the petitioner has not been accepted.

4. Per contra, the learned counsel appearing for the College i.e. the respondents no. 3 and 4, referring to the counter-affidavit, has submitted that the College in question was established in the year 1978 and was affiliated in Veer Kuwar Singh University, Ara. The State Government had granted temporary affiliation in Urdu subject on 05.08.1996 and the same was extended on 28.10.2000, whereafter two posts of lecturer of Urdu was sanctioned on 13.12.2000. It is further submitted that one Md. Adil Khalifa was working as lecturer of Urdu subject, but he left the job and joined somewhere else whereupon the petitioner was appointed on temporary basis on 12.01.1989, whereafter stipend/ salary was paid to the petitioner up to the month of February, 1996. It has been further stated in the counter affidavit that the petitioner became a habitual absentee w.e.f. the month of March, 1996 and he used to come to the College for one or two days in a month and subsequently, he stopped coming to the College. The Secretary of the College vide letter dated 22.01.2000 requested the petitioner to submit



his explanation regarding his failure to attend the college regularly, however, the petitioner failed to give any reply. The Governing body of the college then took a decision on 27.11.2006 to remove all those teachers who were absent from the college for six months, whereafter the petitioner was also removed from the college in question. It has been denied in the counter affidavit that the petitioner has ever submitted any medical leave application. Lastly it has been submitted that a proper advertisement was issued in the daily news paper "Dainik Jagaran" on 11.05.2006 for appointment of lecturer in Urdu subject in the college and after interview and following the proper selection process, one lecturer in Urdu subject, namely, Mr. Ghulam Haider was appointed and he is regularly working in the college.

5. I have heard the learned counsel for the parties and perused the materials on record and I find that apart from the fact that the petitioner was appointed on temporary basis, without following the proper procedure prescribed in law i.e. upon issuance of advertisement and following the appropriate mode of selection process, no document has been produced on record by the petitioner herein to show that the services of the petitioner had been regularised by the respondent authorities. In any view of the matter, it is apparent from the record of the case that the petitioner has remained absent in an unauthorised manner for several years, may be on account of his ill-health, but without sanction of any leave, hence, the respondent authorities were well within their rights to issue a show cause dated 22.01.2000 and



thereafter terminate the services of the petitioner herein, which was purely temporary in nature and that too a back-door entry. Even otherwise, the present writ petition is barred by the principles of delay and laches inasmuch as though, the services of the petitioner was terminated in the year 2006, he has thought it convenient to approach this Court only on 26.03.2014 i.e. after almost eight years and that too without arraying the lecturer in Urdu subject, who has already been appointed in the said college, as party respondents in the present case which also makes the present writ petition liable to be dismissed on the ground of non-joinder of parties.

6. For the reasons mentioned herein above, I do not find any merit in the present writ petition. Accordingly, the present writ petition is dismissed, however without any order as to costs.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
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