

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6438 of 2016

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Shankar Prasad son of Late Baidyanath Prasad, resident of village
Basmanpur, P.S. Mufassil, District East Champaran.

... .. Petitioner/s

Versus

1. The B. R. A. Bihar University, Muzaffarpur through its Vice Chancellor
2. The Vice Chancellor, B. R. A. Bihar University, Muzaffarpur.
3. Dr. Sri Krishna Sinha Mahila College, Motihari, through its Principal.
4. The Principal, Dr. Sri Krishna Sinha Mahila College, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajit Kumar
For the Respondent/s : Mr.Santosh Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 25-02-2020 Heard both sides.

The petitioner in this writ petition seeks direction to the respondents to re-designate the petitioner as Demonstrator from the post of Laboratory Incharge and to give all the benefits admissible to the petitioner after being re-designated him as Demonstrator.

Learned counsel for the petitioner submits that petitioner was working as Laboratory In-charge in the Chemistry Department of Dr. Sri Krishna Sinha Womens College. The petitioner retired on 31.03.2016. The Govt. of Bihar issued a letter as contained in Letter No.2/P 8-41/2003-1115 directing all the Registrars of the Universities that in



pursuance of the order passed by the Hon'ble Supreme Court in S.L.P. No.7021 of 1999 and 7022 of 1999, Civil Appeal No.4215-16 of 2002 to re-designate all the Laboratory Assistant, Junior Laboratory Assistant, Laboratory In-charge, Laboratory Technician and Technician Assistant as Demonstrator and no appointment shall be made in future on the aforesaid post of Laboratory Assistant, Junior Laboratory Assistant, Laboratory In-charge, Laboratory Technician and Technician Assistant and granted scale. When the petitioner filed a petition before the Principal, the Principal wrote a letter to the Registrar, B.R.A. University that the petitioner and others were working on daily wages but their services were regularized vide letter No.14/M-2-0254/94-378 dated 21.04.2009 and letter No.14/M-2-0254/94-1804 dated 29.09.2009. The persons who were working on the post of Laboratory Assistants were re-designated but since the services of the petitioner and others were pending for regularization, petitioner could not be re-designated. Petitioner is entitled for re-designation and also for all the benefits after re-designation on the post of Demonstrator.

The University filed counter-affidavit. The learned counsel for the University submits that the letter No.2-P 8-41-2003-1115 dated 14.06.2006 categorically states that those



Laboratory Assistants, Junior Laboratory Assistants, Laboratory In-charge, Laboratory Technicians and Technician Assistants who were appointed against the sanctioned vacant post after following the due process and possessed the graduation degree at the time of their appointment are eligible to be re-designated to the post of Demonstrator. The services of the petitioner were regularized w.e.f. 21.04.2009 by the University along with nine other persons. The petitioner was not appointed against sanctioned vacant post. The service of the petitioner was regularized on the ground that since the petitioner was working for many years, the Govt. has already by Bihar Act 22 of 2012 defined the post of Teachers and excluded the non-teaching employee Lab Assistant and no appointment on the post of Demonstrator was made thereafter. The validity of Bihar State Universities (Amendment and Validation) Act, 2012 (Bihar Act 22 of 2012) was upheld by the High Court. One Durga Prasad Singh preferred Civil Appeal No.6178-6181 of 2015 and the Hon'ble Supreme Court dismissed the S.L.P. observing that the Lab Assistant and others who have already been re-designated shall not be reverted back and the benefits accorded to them shall not be withdrawn. Therefore, the petitioner cannot be re-designated as Demonstrator, a non-existing post of



Demonstrator.

Having considered the submissions of both sides, it is crystal clear that the petitioner was of course appointed on the post of Lab Assistant in the year 1982 on daily wages in Dr. Sri Krishna Sinha Womens College, Motihari. The petitioner was not working on the sanctioned post. When in pursuance of the letter dated 14.06.2006 as contained in Memo No.13/1192 issued under the signature of Additional Secretary, Human Resources Department, Govt. of Bihar, all the Registrars of the Universities were directed to re-designate the Graduate Lab Assistant, Lab In-charge, Technician Assistant working in Graduate Laboratory. By the same letter, it has been resolved that no appointment on the post of Demonstrator shall be made in future. On 14.06.2006, petitioner was not working on a sanctioned post in accordance with law. Later on, since the petitioner was working since 1982 on daily wages, the services of petitioner and others were regularized in the year 2009. By Bihar Act 22 of 2012, the word “Teacher” has been defined and word “Teacher” does not include the Demonstrator or Lab Assistant. The post of Lab Assistant has already been abolished. The validity of the Act has been upheld upto Hon’ble Supreme Court and thus, I find that petitioner who was working on the



post of Lab Assistant firstly on daily wages is not entitled to be re-designated as Demonstrator and petitioner is not entitled to get any benefits attached to the post of Demonstrator.

Having considered the facts aforesaid, I find no merit in this writ petition. Accordingly, the same is dismissed.

(Prabhat Kumar Jha, J)

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