

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2255 of 2014

1. Kumud Kumari and Ors W/O Sri Shambhu Sharan Shahi Resident Of Gopalganj, P.S- Gopalganj, District- Gopalganj, At Present Posted As Lab-Technician At Mahendra Mahila Mahavidyalay, Gopalganj.
2. Aruna Kumari W/O Janardan Prasad Singh Residing Behind G.P.O. Gopalganj, P.S And District- Gopalganj, At Present Posted As Librarian At Mahendra Mahila Mahavidyalay, Gopalganj.
3. Satyendra Prasad Verma S/O Sri Ram Chandra Prasad Verma Resident Of Village- Hardian, P.S- Barharia, District- Siwan, At Present Posted As Accountant At Mahendra Mahila Mahavidyalay, Gopalganj
4. Rameshwar Prasad S/O Sri Jeeut Prasad Residing Near Janta Cinema, Gopalganj, P.S And District- Gopalganj, At Present Posted As Store- Keeper At Mahendra Mahila Mahavidyalay, Gopalganj.
5. Ram Kumari Devi D/O Late Sugambar Lal Resident Of Village- Basdiha, P.S- Gopalganj, Sadar, District- Gopalganj At Present Posted As Peon At Mahendra Mahila Mahavidyalay, Gopalganj.
6. Chhabila Manjhi S/O Sri Jakhan Manjhi Resident Of Yadavpur Road, Ward No. 1, P.S And District Gopalganj, At Present Posted As Peon At Mahendra Mahila Mahavidyalay Gopalganj.
7. Kamla Yadav S/O Sri Ramadhan Rawat Resident Of Village- Sarayanward No. 1, P.S And District Gopalganj, At Present Posted As Peon At Mahendra Mahila Mahavidyalay, Gopalganj.
8. Baliram Singh S/O Sri Ram Dayal Singh Resident Of Village- Manipur, P.S And District- Gopalganj, At Present Posted As Peon At Mahendra Mahila Mahavidyalay, Gopalganj.
9. Ramchandra Singh S/O Sri Gaya Singh Resident Of Village- Jogwan, P.S And District- Gopalganj, At Preent Posted As Peon At Mahendra Mahila Mahavidyalay, Gopalganj.
10. Jatashankar Mishra S/O Triveni Mishra Kethwalia, Ward No. 8, P.O, P.S And District- Gopalganj, At Present Posted As Peon At Mahendra Mahila Mahavidyalay, Gopalganj.
11. Suneshwar Mahto S/O Sri Dhanuk Dhari Mahto Resident Of Sarayan Ward No. 2, P.S And District- Gopalganj, At Present Posted As Peon At Mahendra Mahila Mahavidyalay, Gopalganj.
12. Bhagwan Prasad S/O Late Jiut Prasad Resident Of Mohalla- Chandragokul Road, Gopalganj, P.S And District- Gopalganj, At Present Posted As Peon At Mahendra Mahila Mahavidyalay, Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chancellor, Univesities Of Bihar, Raj Bhawan, Bihar, Patna.
3. The Jai Prakash University, Chapra Through Its Registrar, Chapra.
4. The Vice- Chancellor, Jai Prakash University, Saran At Chapra.



5. The Registrar, Jai Prakash University, Chapra.
6. The Principal, Mahendra Mahila Mahavidyalay, Gopalganj, District-Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Umashankar Prasad, Sr. Advocate
	:	Ms. Mira Kumari
	:	Mr. Shrikant Mishra, Advocate
For the Respondent/s	:	Mr. Amar Nath Deo

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

13 03-03-2020 This case has a chequered history. Petitioners have approached time and again for a direction to the respondents to consider their case for regularisation. Much before the Full Bench of Patna High Court decided the issue of regularisation in Braj Kishore Singh Vs. State of Bihar 1997 (1) BLJR 652. Petitioners have approached this Court in CWJC No. 2352 of 1994 and on 08.08.1994. Division Bench of this Court disposed the writ application to consider the case of the petitioner for absorption. After the judgment of the Full Bench, the petitioners have once again approached this Court in CWJC No. 144 of 1996 where the consent order was passed on 22.04.1997. For ready reference, the order dated 22.04.1997 in which State of Bihar as well as the University was party is quoted below:

“The parties are in agreement that this application be disposed of with an observation that the case of the petitioners will be considered by the Vice-Chancellor,



Jai Prakash University, Chapra in the light of the Full Bench decision of this court in Braj Kishore Singh & Ors. Vs. State of Bihar & others, 1997 (1) P.L.J.R. 109 and the directions given in that decision will also apply to the case of the petitioner. It is hoped and expected that the petitioners' case will received the attention of the Vice-Chancellor expeditiously and without any undue delay.”

Unfortunately, despite the consent order in which State of Bihar as well as of University was party for decision of the fate of the petitioner in the light of the judgement in Braj Kishore Singh Case (Supra) no decision was taken by the respondents. Thereafter a series of writ petition have been filed by the petitioner. University at its own decided to redress the grievance of the petitioner but the decision of the University was subject to approval of the State Government. The State has formulated its own decision in the light of the judgment in Braj Kishore Singh (Supra) contained in letter dated 30th November, 1998.

From the materials available on record it appears that on several occasion exercise was done at the level of the college and University to furnish details to the State Government so that appropriate decision may be taken at the level of State for grant



of approval of the decision of the University regarding regularisation during the pendency of the entire process. The State authority became wiser and they started taking refuge to the decision in State of Karnataka and Ors. Vs. Uma Devi judgment (2006) 4 SCC 1, the Supreme Court has noted that regularisation is not a mode of appointment. The principle laid down by the Apex Court was discussed in various cases by this Court as well as the Apex Court. The Apex Court has occasion to examine the continuing exploitation of poor non-teaching employees in the case of Amarkant Rai vs. State of Bihar & Ors in Civil Appeal No. 2835 of 2015 (Arising out of SLP (Civil) No. 20169/2013) reported in (2015) 8 SCC 265.

The material on record manifests that these petitioners have been subjected to continued exploitation. They have rendered their service for nearly four decades and at the evening of their life they are in a fix whether they are still employee of the constituent college or not. In a situation like instant the Court directs the respondent-State to take appropriate decision with regard to the approval of the service of the petitioner in the light of the decision of the University at the earliest preferably within a period of three months from the date of receipt/production of a copy of this order. While taking decision



they are under obligation to strictly adhere to the principle laid down by the Apex Court in Amarkant Rai vs. State of Bihar and Ors. The respondents have to decide the fate of the petitioners for regularisation as well as consequential benefit of such decision atleast from the date the consent order was passed contained in Annexure-12 dated 22.04.1997.

With the aforesaid the writ petition is disposed of.

(Anil Kumar Upadhyay, J)

Rishi Kumar/-

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