

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.883 of 2021

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1. Ajay Kumar S/o Late Shiv Prasad, Lecturer, Department of Botany, Shershah College, Sasaram, at present working in J.J College at Ara, P.S.- Town, District - Bhojpur.
 2. Lal Babu Singh, S/o Yoegeshwar Singh, Lecturer, Department of Psychology, Shershah College, Sasaram, at present working at P.G. Department, Veer Kunwar Singh University at Ara, P.S. - Town, District - Bhojpur.
 3. Shahla Bano, W/o S.I.M Rizvi, Lecturer, Department of Urdu, Shershah College, Sasaram, at present working at Rohtas Mahila College at Sasaram, P.S. Town, District - Rohtas.
 4. Gop Nath Singh, S/o Late Ramsurat Singh, Lecturer, Department of Political Science, Shershah College, Sasaram, at present working at S.P.V. College at Bhabhua, P.S. Town, District - Kaimur.
 5. Bindeshwari Singh, Retired as Lecturer, Department of Psychology, Shershah College, Sasaram, P.S. Town, District - Bhojpur.
 6. Kumari Punam, W/o Late Kameshwar Prasad Sing, Former Lecturer, Department of Psychology, Shershah College, Sasaram, Resident of Mohalla - Ashok Nagar, P.S. Town, District - Gaya.

... .. Petitioner/s

Versus

1. The Veer Kunwar Sing University, Ara through its Registrar.
2. The Vice-Chancellor, Veer Kunwar Singh University, Ara, P.S. Town, District- Bhojpur.
3. The Registrar, Veer Kunwar Singh University, Ara, P.S. Town, District - Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Amaresh Kumar Singh, Adv.
For the Unversity	:	Mr.Ritesh Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 09-03-2021 The present writ petition has been filed for shifting the date of absorption to the date of joining / eligibility rather than taking it from the date of sanction / recommendation of the post by modifying the order dated 05.05.2018 and its corrigendum dated 10.05.2018 as the issue has



already been decided by this Court by a judgment dated 23.06.2015, passed in CWJC No. 21232 of 2014, which has also been affirmed in LPA No. 218 of 2016 vide order dated 25.07.2016.

At the outset, the learned counsel for the parties submit that the present case is squarely covered by a judgment rendered by a Division Bench of this Court, reported in **2017(2) PLJR 505 (The State of Bihar & Anr. vs. Ram Parvesh Rai & Ors.)**, which has also been affirmed by the Hon'ble Apex Court. At this juncture, it would be relevant to reproduce paragraphs no. 6 to 11 of the said judgment rendered in the case of **Ram Parvesh Rai & Ors.** (supra) hereinbelow:-

"6. In view of the recommendations made by the Commission and the Supreme Court, in case of State of Bihar & Ors. vs. Bihar Rajya MSESCK Mahasangh & Ors. (supra), whereby the said recommendations were accepted, the Veer Kunwar Singh University, Ara, appears to have issued notifications, in the years 2005-2006 for absorption of respondent Nos. 1 to 18, with effect from the respective dates, when they had



acquired the requisite eligibility for the post.

7. Nearly nine years thereafter, the Veer Kunwar Singh University, Ara, came out with a notification shifting the date of absorption of respondent Nos. 1 to 18 to 1.2.1988, i.e., the date, when the State Government had sanctioned the post.

8. Challenging the legality of the said notification, issued by Veer Kunwar Singh University, Ara, respondent Nos. 1 to 18 (contesting respondents) filed an application, under Article 226 of the Constitution of India, which gave rise to C.W.J.C. No. 21232 of 2014*, primarily on the ground that shifting of the date of absorption was, in the teeth of Supreme Court's decision, in case of State of Bihar & Ors. vs. Bihar Rajya MSESKK Mahasangh & Ors. (supra), wrong and illegal inasmuch as the Justice Agrawal Committee had recommended the dates of absorption to be the dates, when the concerned Teachers acquired the eligibility criteria for the posts concerned.

9. Learned Single Judge, referring to two previous decisions of this Court, in case of Manju Chaudhary vs. B.N. Mandal University & Ors., reported in 2012(3)



PLJR 773, and in case of Babu Saheb Jha & Ors. vs. The State of Bihar & Ors. (C.W.J.C. No. 3017 of 2016), turned down the stand of the State Government and the University that the services of respondent Nos. 1 to 18 (contesting respondents) were to be absorbed with effect from the date of sanction of respective posts and quashed the impugned notifications.

10. Learned Counsel, appearing on behalf of the appellant, has submitted, referring to Section 4(1)(14) of the Bihar Universities Act, 1976, that sanction of the State Government is mandatory before the University could take over the college in question and in the absence of sanction of posts by the State Government, no appointment could be said to be legal. He has, accordingly, submitted that appointment of respondent Nos. 1 to 18 (contesting respondents) could be validated only with effect from the date when the posts were actually sanctioned by the State Government.

11. We do not find any force in the submission, so advanced on behalf of the State of Bihar, for the simple reason that these aspects have been elaborately



considered in the report of the Justice S.C. Agrawal Committee and, upon examination of all the aspects, the Committee recommended that in such cases, where recommendations for sanction of posts were pending with the State Government, before the cut-off date, the effective dates of absorption of the teaching employees would be the dates, when they acquired the eligibility criteria. As has been already noted above, the said report has been accepted by the Supreme Court in its decision in case of State of Bihar & Ors. vs. Bihar Rajya MSESCK Mahasangh & Ors. (supra). The issue, which has already been decided up to the level of Supreme Court, cannot be reopened in the present proceeding. The learned Single Judge has rightly held the notifications, under challenge in the writ proceedings (C.W.J.C. No. 21232 of 2014*), to be, in the teeth of Supreme Court's decision in case of State of Bihar & Ors. vs. Bihar Rajya MSESCK Mahasangh & Ors. (supra), bad in law and, therefore, not sustainable."

Sri Amaresh Kumar Singh, the learned counsel appearing for the petitioners and Sri Ritesh



Kumar, the learned counsel appearing for the Respondent-University jointly submit that the present case be disposed of in light of the aforesaid judgment rendered by the learned Division Bench of this Court in the case of **Ram Parvesh Rai & Ors.** (supra).

Accordingly, the present writ petition stands disposed of in terms of the judgment rendered by the learned Division Bench in the case of **Ram Parvesh Rai & Ors.** (supra).

It is needless to state that the consequential benefits shall enure to the benefit of the petitioners herein.

(Mohit Kumar Shah, J)

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