

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9384 of 2018

Umapati Nath Sahay Son of late Rameshwar Prasad, Resident of Quarters
No.2, Magadh University Campus, Bodh Gaya, District-Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Magadh University, Bodh Gaya through its Registrar
3. Vice Chancellor, Magadh University, Bodh Gaya
4. Registrar, Magadh University, Bodh Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Abhinav Srivastava, Adv.
For the Respondent/s	:	Mr. Ram Vinay Pd. Singh, AC to GA-12
For the University	:	Mr. Pratik Kumar Sinha, Adv.

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 23-08-2022 The petitioner by way of this writ petition prays to direct the respondent University to take steps towards considering the case of the petitioner for granting him promotion against the sanctioned vacant post of Section Officer or Assistant Internal Auditor or post equivalent thereto.

Learned counsel for the petitioner submits that in terms of the provisions contained under Section 36(7) of the Bihar State Universities Act, 1976, the promotional avenues are available to non-teaching employees. The petitioner, who has been working from three decades now, and despite fulfilling all the requirement and qualifications laid down for the promotional post, has not been considered even once by the



University. It is submitted that on account of lack of will and there being no reason, the petitioner has been deprived of his rightful consideration for promotion.

The respondent University is not conducting the exercise of promotion at all.

The State has filed its counter affidavit and stated that the petitioner was required to be considered by the University at its own level and so far as the State Government is concerned, it has no role to play. However, in the counter affidavit, it has also been mentioned that the petitioner was granted time bound promotion on completion of 10 years of regular service with effect from 02.04.1994 and was also promoted against the sanctioned vacant post of Assistant with effect from 16.04.2007. However, further exercise of promotion is required to be conducted if at all by the University.

I have reflected on the submissions made.

It is settled law that no person has a right of promotion. The only right available is for consideration. The writ of mandamus can be issued only when any other person is considered for promotion while leaving out the petitioner. No such case is set up by the petitioner in the present case. It is his prayer that the respondents be directed to conduct the exercise



of promotion.

In the opinion of this court, such directions are not required to be issued, as it is in the absolute administrative domain of the employer, as to when it may conduct an exercise of promotion. As regards, the petitioner's case is concerned, as and when the respondents conduct the exercise, they will have to consider the case of the petitioner, in accordance with law.

Keeping in view thereof, the prayer made by the petitioner at this stage cannot be accepted and accordingly, the writ petition is devoid of merit and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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