

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.63 of 2019

In

Civil Writ Jurisdiction Case No.7404 of 2012

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1. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwarnagar, Darbhanga.
 2. The Registrar Kameshwar Singh Darbhanga Sanskrit University, Kameshwarnagar, Darbhanga.

... .. Appellant/s

Versus

1. Asha Devi, Wife of Late Indradeo Sharma, resident of Village- Mosadpur, Police Station- Mehandia, District- Jehanabad.
2. The Secretary of the Governing Body, Sri Ram Sanskrit College, Sarauti, Rampur Chausam, District- Jehanabad.
3. The Principal, Sri Ram Sanskrit College, Sarauti, Rampur Chausam, District- Jehanabad.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Deepak Kumar, Advocate.

For the Respondent/s : Mr. Dharendra Kumar Jha, Advocate.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 28-03-2023

Heard Mr. Deepak Kumar, learned advocate for the appellant/Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwarnagar, Darbhanga and another and Mr. Dharendra Kumar Jha, learned counsel for the respondent/Asha Devi, who is the widow of late Shri Indradeo Sharma, who claims that she be paid the arrears of



salary from 1996 onwards till the time he served the University.

It appears from the impugned judgment in CWJC No. 7404 of 2012 that one Narsing Narayan Sharma had been appointed in the Department of Political Science without any recommendation of the College Service Commission on 30.12.1976. Later, the vacancy was advertised on 12.07.1979 and only thereafter, the University had granted approval of the services of Narsing Narayan Sharma for a period of six months with a direction that the College may take appropriate action for sending requisition to the Bihar College Service Commission, for issuance of advertisement and selection process to be completed for the recommendation by Bihar College Service Commission.

It has also been noticed by the learned Single Judge that the post of Lecturer of political science was never advertised by College Service Commission. In the interregnum, the appointment process for the Lecturer in the Department of Economics was conducted by the College Service Commission and the late husband of the respondent



was recommended against the post of Lecturer in Economics. However, no approval of the University came-forth despite the recommendation of the College Service Commission. But such approval was given only on 17.02.1992. Thereafter, a writ petition was filed by the late husband of the respondent in which a direction was issued to the Vice Chancellor and Registrar of the University to consider the proposal of the College for according approval with regard to his appointment.

However, the direction of the Court was never followed, resulting in preferring of one contempt petition bearing MJC No. 524 of 2009. During the pendency of the aforementioned contempt petition, the appellant/University issued order granting approval of the services against the post available on the retirement of aforementioned Narsing Narayan Sharma.

Be that as it may, the contempt petition was dropped with liberty to the late husband of the respondent to challenge the said decision. It was only thereafter that the writ petition was filed by the late husband of the respondent



on the ground that he had been recommended for appointment against the post of Lecturer in the subject Economics by the College Service Commission on 17.10.1996 but, was granted approval by the University after nearly 11 years, approving his services w.e.f. 01.12.2008. The learned Single Judge was of the view that the University acted in most arbitrary manner and directed that the University ought to ensure payment of all the arrears of salary of the late husband of the respondent, treating the date of his appointment as 17.10.1996.

For a brief period, the order passed by the learned Single Judge was stayed by this Court on the ground that no challenge was made by the husband of the respondent against the appointment of Narsing Narayan Sharma and that the approval to the appointment of the late husband of the respondent was in consonance, as urged by the appellant University, as the post became available only after the superannuation of the person appointed in the year 1976.

The learned Single Judge, however, has noted the circumstances under which the matter was kept under



consideration by the University for good eight years for no apparent fault of the husband of the respondent whose services were approved by the College Service Commission much later.

We are in agreement with the learned Single Judge that for the delay of the University, an employee cannot be made to suffer.

The appeal thus stands dismissed.

The order passed by the learned Single Judge ought to be complied with expeditiously.

(Ashutosh Kumar, J)

(Harish Kumar, J)

manoj/rishi-

AFR/NAFR	NAFR
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