

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4062 of 2019

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Shashi Chandra Mishra Son of Uday Narayan Mishra Resident of Village and
Post - Umari, Via - Jhanjharpur, Distt.- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human resources
Department, New Secretariat, Patna, Bihar
2. The Principal Secretary Human Resources Department, New Secretariat,
Patna, Bihar
3. LNM University through Vice Chancellor, LNM University, P.S. University,
Darbhanga
4. The Vice Chancellor, Lalit Narayan Mithila University, P.S. University
Darbhanga
5. The Screening Committee through its Chairman (V.C.) LNM University, P.S.
University, Darbhanga
6. The Registrar Lalit Narayan Mithila University, P.S.-University, Darbhanga
7. The Secretary Higher Education, Human Resources Department, New
Secretariat, Patna, Bihar
8. The Principal L. N. Janata College, Jhanjharpur, P.S. Jhanjharpur Madhubani

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Bimlesh Kumar Jha, Advocate
For the Respondent/s	:	Ms.Binita Singh (SC 28)
	:	Mr. Vivek Anand Amritesh, AC to SC 28
For LNMU	:	Mr. Shailesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 30-11-2023

1. Heard learned counsel for the parties concerned.
2. The petitioner got retired on 31.08.2009 from the
post of Reader. He has filed the present writ application for
promotion to the post of University Professor under Time
Bound Promotion Scheme, after lapse of 10 years of retirement
on the ground that similarly situated person has approached this



Court in ***C.W.J.C. no. 15220 of 2010 (Sahdeo Jha v. The State of Bihar and others)*** and he has got the relief.

3. Learned counsel for the petitioner submits that junior to the petitioner namely Sahdeo Jha, who was working in the same College along with the petitioner, approached this Court against cancellation of his promotion vide notification no. 10239- 831/2010 dated 28.7.2010, by filing a writ petition bearing ***C.W.J.C. no. 15220 of 2010 (Sahdeo Jha v. The State of Bihar and others)***, which was allowed and the promotion of junior to the petitioner on the post of University Professor, was restored by this Court, as such, the prayer of the petitioner is that the petitioner be also given the same treatment, as has been given to his junior in the aforesaid writ application.

4. I have heard the learned counsel for the parties. The petitioner has approached this Court after 10 years of his retirement and is praying for promotion to the post of University Professor on the ground that junior to the petitioner has been promoted on the post of Professor in the year, 1997 but the same was cancelled in the year, 2010, which he had challenged by filing writ petition bearing ***C.W.J.C. no. 15220 of 2010 (Sahdeo Jha v. The State of Bihar and others)***, which was allowed and his promotion was restored.



5. It is evident that petitioner was not granted promotion along with his junior on the post of Professor in the year 1997 but he did not raise any grievance at that point of time and since 1997, no step was taken by the petitioner against the University for his non-consideration on the promotional post of University Professor. He retired in the year 2009 and only after 10 years of his retirement, he has filed the present writ application for consideration of his case for promotion on the post of University Professor on the basis of judgment passed in the case of *Sahdeo Jha (supra)*, who, according to the petitioner, was junior to him and was granted promotion in the year 1997. The petitioner has raised his claim by way of filing the present writ application in the year 2019 for the first time, after 10 years of his retirement. Hon'ble Supreme Court, in a judgment rendered in the case of *Shiba Shankar Mohapatra and others vs. State of Orissa and others*, reported in (2010) 12 SCC 471, has held that it is settled law that fence-sitters cannot be allowed to raise the dispute or challenge the validity of the order after its conclusion. No party can claim the relief as a matter of right as one of the grounds for refusing relief is that the person approaching the Court is guilty of delay and the laches.



6. In my opinion, the present writ application filed by the petitioner is hit by delay and laches and the petitioner cannot be granted the relief on the basis of similar writ application having filed by his colleague in the year, 2010, immediately after cancellation of his promotion, which was granted in the year 1997.

7. Accordingly, I do not find any merit in the present writ application, as such, the same is dismissed.

(Anil Kumar Sinha, J)

rinkee/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.12.2023
Transmission Date	NA

