

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2089 of 2023

Parasnath Singh @ Paras Nath Singh @ Paras Singh, Son of Late Nag Narayan Singh, Resident of Village- Harakhabara @ Baraharakh, P.O. and P.S.- Pakaridayal, District- East Champaran, Motihari.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Department of Education, Government of Bihar, Patna.
4. The Deputy Secretary, Education Department, Government of Bihar, Patna.
5. The Director, Department of Higher Education, Government of Bihar, Patna.
6. The Deputy Director, Department of Higher Education, Government of Bihar, Patna.
7. The B.R. Ambedkar Bihar University, Muzaffarpur through its Registrar.
8. The Vice Chancellor, B.R. Ambedkar Bihar University, Muzaffarpur.
9. The Registrar, B.R. Ambedkar Bihar University, Muzaffarpur.
10. The Finance Officer, B.R. Ambedkar Bihar University, Muzaffarpur.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Jagjit Roshan, Advocate Mr. Om Prakash Singh, Advocate
For the State	:	Mr. Rajesh Kumar Sinha, AC to GP-23
For the University	:	Mr. Indrajesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 27-07-2023 Heard learned counsel for the petitioner, learned counsel for the B.R. Ambedkar Bihar University (hereinafter referred to as the 'University') and learned counsel for the State.

2. The petitioner in the present case is 63 years old and has already attained the age of superannuation but he is aggrieved by and dissatisfied with the order passed by the Deputy Secretary, Education Department, Government of Bihar vide Memo No. 1215 dated 04.12.2020 (Annexure '19' to the



writ application) whereby and whereunder the claim of the petitioner for regularization on the post of Counter Clerk in S.N.S. College, Motihari has been rejected.

3. Learned counsel for the petitioner submits that vide Annexure '19' to the writ application, the Department of Education, Government of Bihar has rejected the claim of the petitioner for regularization on the grounds inter-alia that there is no record of regular working of the petitioner and payment of salary to him during all this period. It is submitted that the facts which have been taken note of in the impugned order (Annexure '19') are only those facts which were contained in Memo No. 419 dated 18.03.2014 which was subject matter of challenge in this Court in CWJC No. 10019 of 2014 which was quashed by this Court.

4. Learned counsel submits that vide Annexure '15' to the writ application, the University had recommended the case of the petitioner and in its recommendation, the University has recorded that the petitioner has been appointed having requisite qualification and after following due process of advertisement and interview by the Selection Committee which has also been approved by the Governing Body and he has been working continuously for more than 35 years.



5. It is submitted that the recommendation of the University as contained in Memo No. B/27 dated 09.01.2020 has not been accepted by the Department.

6. Learned counsel submits that Annexure '19' suffers from non-consideration of the materials available on the record and is liable to be set aside.

7. Learned counsel for the petitioner further submits that there are several instances where the service of the employees has been regularized by the University against the sanctioned vacant post and in their case, approval was not taken from the State Government but in case of the petitioner, the University adopted a discriminatory approach while considering the case of the petitioner and asked for approval from the State Government.

8. The writ application has been opposed by the State. Learned counsel submits that Annexure '19' is a reasoned order and the petitioner has not controverted the reasons provided in the impugned order by the Department of Education.

9. Having heard learned counsel for the petitioner and learned counsel for the State as also learned counsel for the University, this Court finds that the present case has got a chequered history. The petitioner along with one Mansoor Alam



had earlier moved this Court in CWJC No. 3413 of 2012 wherein this Court was informed that the University had constituted a Three-Man Committee to examine the cases of the petitioners and others. The said Committee, it was contended, had submitted a report in which also the name of the petitioner is included and shown as working and receiving the regular payment. In view of the aforementioned statements made before the learned Writ Court, this Court directed the Secretary, Higher Education to consider the recommendation of the University and take an appropriate decision.

10. Pursuant to the order of this Court in CWJC No. 3413 of 2012, a decision was taken by the then Principal Secretary, Human Resources Development Department, Government of Bihar. The case of the petitioner was not found fit for regularization. The petitioner once again moved this Court in CWJC No. 10019 of 2014. The learned Writ Court quashed the order dated 18.03.2014 passed by the then Principal Secretary of the Department by holding that a holistic and complete view of the facts is required to be taken. The new Principal Secretary of the Department was directed to consider the case of the petitioner afresh by taking into consideration all materials which have been compiled by the petitioner in reply to



the counter affidavit of the State.

11. In the aforementioned background, an order dated 06.10.2015 was passed by the Principal Secretary, Education Department, Government of Bihar. This time, once again, the petitioner challenged the order dated 06.10.2015 in CWJC No. 1156 of 2016 but could not succeed in getting it set aside. A perusal of the order dated 21.07.2016 passed in CWJC No. 1156 of 2016 would show that the writ application was disposed of on the request of the petitioners with an observation that they would like to pursue the matter before the Registrar of the University keeping in mind the letter dated 30.12.2015 issued by the Education Department. A copy of the letter dated 30.12.2015 has been brought on record as Annexure '13' to the writ application which would show that the Government communicated the Registrar of the University that in respect of the sanctioned post in respect of the non-teaching staffs, the University is competent to take a decision with regard to payment of their salary/confirmation on the post and there is no need of approval of the Department.

12. It further appears that in the light of the order of this Court in CWJC No. 1156 of 2016, the Director, Higher Education sent the records of the petitioner to the Registrar of



the University whereupon the Vice-Chancellor considered the case of the petitioner and passed a reasoned order contained in memo No. B/27 dated 09.01.2020 wherein it has been held that the services of the petitioner be regularized against the vacant sanctioned post of Counter Clerk at S.N.S. College, Motihari with immediate effect subject to approval of the State Government, however, the financial benefits on account of this decision will be provided after receipt of funds from the State Government.

13. Learned counsel for the petitioner has challenged this part of the order of the Vice-Chancellor whereunder it has been observed that the regularization would be subject to approval of the State Government.

14. Be that as it may, the State Government considered the case of the petitioner and passed the impugned order as contained in Annexure '19'.

15. In course of hearing of this writ application, this Court called upon learned counsel for the petitioner to demonstrate from the pleadings in the writ application that what have been stated in Annexure '19' are not correct or may be prima-facie found contrary to the materials on the record. For instance, in the impugned order, it is stated that in the meeting



no document could be placed showing regular attendance of the petitioner and proof of his working. This fact has not been controverted by way of pleading in the writ application much less by placing any relevant material on the record.

16. It is further stated in the impugned order that the University made available records regarding payment to this petitioner which shows that the petitioner was paid only a sum of Rs.200/- on 07.11.1988, Rs.150/- on 06.03.1991, Rs.500/- on 18.03.2011 and Rs.800/- on 12.11.2012 during the period 1980 and 2015. The order categorically states that apart from these payments, no other proof could be made available by the University.

17. This Court once again called upon learned counsel for the petitioner to demonstrate from the pleading that this part of the finding in the impugned order is not correct.

18. Learned counsel for the petitioner is unable to show any pleading in this behalf assailing this finding or placing on record any material to show that the petitioner was being regularly paid during the period.

19. In the impugned order, there is another finding that the petitioner was appointed as Lab In-Charge by the Principal of the College and it was not approved by the



Vice-Chancellor in terms of Section 10(6) of the Bihar State Universities Act. No proof in this regard could be placed.

20. Annexure '19' further contains a reason saying that in the meeting of the Syndicate held on 14.06.1984 in the list of candidates selected for payment, one name mentioned at Serial No. 14 of Sri Arun Kumar was struck down and in his place, the name of this petitioner was typed.

21. On the face of the aforementioned findings recorded by the Department in Annexure '19' to the writ application which have remained uncontroverted, this Court finds no reason to interfere with the same at this stage when the petitioner has already crossed even the age of superannuation.

22. This application has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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