

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7195 of 2019

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1. Nirendra kumar S/o Late Asharfi Kamati At-Supaul, P.o.-Shivraman, Via-Nohra, Distt.-Darbhanga presently posted as Peon, University Head Quarter, Lalit Narayan Mithila University, Darbhanga
 2. Pawan Kumar Jha S/o Late Chandra Kant Jha Vill. and P.o.-Shubhankarpur, P.s. and Distt.-Darbhanga presently posted as Peon, University Head Quarter, Lalit Narayan Mithila University, Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna
2. The Principal Secretary Education Department, Govt. of Bihar, Patna
3. The Vice Chancellor Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga
4. The Registrar Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Shashi Bhushan Singh, Adv.
For the State	:	Mr.Jitendra Kumar Roy 1, SC-13
		Mr. Jai Prabhat Kishore, A.C. to SC-13
For the L.N.M.U.	:	Mr. Bindhyachal Rai, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 19-02-2024

Heard learned counsels for the parties.

2. This present writ application has been filed for the following relief (s):

(i) For issuance for an appropriate writ in the nature of Mandamus commanding and directing the respondent authorities to grant promotion to petitioner no.1 to Class III post from the date i.e. 01.10.2013 and petitioner no.2 from the date he has been directed to discharge the duty of Class III and



grant all consequential benefit on account of promotion to the post of Class-III.

(ii) For issuance of an appropriate writ in the nature of certiorari for quashing that part of the decision of the Syndicate of the respondent University taken during its meeting convened on 08.09.2016 by which the decision of the promotion committee of the University dated 30.08.2016 to the effect that persons who had been appointed in the service against different non-teaching posts on compassionate ground would not be considered for grant of promotion has been approved.

III) For issuance of an appropriate writ in the nature of mandamus commanding and directing the concerned respondent authorities to take steps towards considering the cases of the petitioners for granting promotion in Class III i.e. Lower Divisional Clerk, respectively from due date in the light of report of Five Men Committee dated 01.09.2017, from which similarly situated persons have been promoted on the basis of their performance in the written examination conducted by the University in view of the Statutes framed in terms of the provisions contained under Section 36(7) of the Bihar State Universities Act, 1976.

3. It is submitted by learned counsel for the petitioners that the petitioners were appointed as Peon on compassionate ground on account of death of their fathers in harness.

4. It is further submitted that a notification dated 25.06.2015 was issued by the University, by which all the non-



teaching employees working in the University were informed that pursuant to the order passed by the concerned authorities under the University, a departmental examination has to be conducted for granting promotion against different posts and at the same time, an advertisement was also enclosed therewith. The petitioners, being eligible, submitted their application forms in the prescribed manner for consideration of their case for grant of promotion against higher post i.e. LDC in the service of the University. Hall tickets were also issued in order to enable them to participate in the written examination to be conducted by the University for promotion of non-teaching employees. They also participated in the written examination on 13.09.2015. On the basis of the performance, a list of qualified candidates was prepared by the University in order to invite such persons to participate in viva voce and roll numbers bearing 1511637 and 1511687 of the petitioners are also reflecting in the column of the qualified candidates. They participated in viva voce exam.

5. It is further submitted that in the meeting of the promotion committee of the University held on 30.08.2016, it was resolved that the persons who had been appointed against different non-teaching posts in the services of the University on compassionate ground are not entitled for grant of promotion.



As such, both the petitioners were not given benefit of promotion.

6. It is further submitted that one Rajesh Kumar was also appointed on compassionate ground against Class-IV post, thereafter, he represented the authority claiming that as per qualification, he was to be promoted in Class-III post and for the same, he filed C.W.J.C. No. 8532/08 before the Court and the Court has disposed of the matter on 19.07.2011 in C.W.J.C. No. 8532/08, with a direction to consider the case for his promotion/upgradation to Class-III post if the same has been granted to other Class IV employees, appointed later, under the Rules.

7. Learned counsel for the University submits that the petitioners are not entitled for promotion on Class III post as they were appointed as Class IV employee on compassionate ground.

8. There can be no dispute in respect of this claim. Petitioners upon their appointment have become an employee of the University and hence, they have to be given equal treatment vis-a-vis other class IV employees and have to be considered for all benefits under the Rules available to class IV employees.

9. In view of the aforesaid discussions, learned counsel



for the University is directed to take necessary steps in accordance with law and as per the direction given in the order dated 19.07.2011 passed in CWJC No. 8532 of 2008.

10. In the circumstances, the writ application is allowed with a direction to the respondent University to consider the case of the petitioners for their promotion/upgradation to class III post if the same has been granted to other class IV employees with effect from when the similarly situated has been granted promotion and also to consider about the second promotion of the petitioners for which the process is going on.

11. It goes without saying that if the petitioners are promoted, they would be entitled to other consequential benefits – monetary as well as seniority in the grade as per law.

12. The petitioners are directed to file a representation along with a copy of this order before the Registrar, Lalit Narayan Mithila University and he shall be obliged to consider the representation of the petitioners and take a decision within a period of three months from the date of filing such representation.

13. It is also made clear that if the promotion of the petitioners was not made within a period of three months, from the date of receipt/production of this order/copy of this order,



the State as well as the University shall be liable for non-compliance of this order.

14. With the aforesaid observation and direction, this writ petition is allowed.

(Anjani Kumar Sharan, J)

divyanshi/-

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

