

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.666 of 2018**  
**In**  
**Civil Writ Jurisdiction Case No.6838 of 2017**

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Dharmeshwar Mishra, son of Late Rajendra Mishra, permanent resident of Mohalla- Balbhadrapur, Police Station- Laheria Sarai, District- Darbhanga, at present residing at 302, Badri Mansion, Post Office Road, Shastrinagar, Patna- 23.

... .. Appellant.

Versus

1. The Vice Chancellor, L. N. Mithila University, Darbhanga.
2. The Lalit Narayan Mithila University, Darbhanga, P.O.- Lalbag, Darbhanga through its Registrar.
3. Principal, C.M. Law College, Darbhanga, West Harahi Tank, P.O.- Lalbagh, Darbhanga, District- Darbhanga.
4. The State of Bihar through the Principal Secretary, Human Resources Department, Vikas Bhawan, Patna.
5. The Principal Secretary to the Honble Governor cum Chancellor of the Universities of Bihar, Patna.

... .. Respondents.

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**Appearance :**

|                           |   |                                                                                         |
|---------------------------|---|-----------------------------------------------------------------------------------------|
| For the Appellant         | : | Mr. Amarendra Narayan, Advocate.                                                        |
| For the State             | : | Mr. Shashi Shekhar Tiwary, AC to AAG-15.<br>Mr. Priyadarshi Matri Sharan, AC to AAG-15. |
| For the University        | : | Mr. Md. Nadim Seraj, Advocate.<br>Mr. Shailesh Kumar, Advocate.                         |
| For the Respondent No.5 : |   | Mr. Janardan Prasad Singh, Senior Advocate.<br>Mr. Rajiv Ranjan Kumar Pandey, Advocate. |

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**and**  
**HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

**Date : 08-08-2024**

In the present L.P.A. No.666 of 2018, the appellant has assailed the order of the learned Single Judge dated 18.04.2018 passed in C.W.J.C. No.6838 of 2017. The present L.P.A. No.666 of 2018 was disposed on 20.06.2019 by the Coordinate Bench.

**2.** Feeling aggrieved by the Coordinate Bench decision in the present L.P.A. No.666 of 2018 dated 20.06.2019,



appellant preferred Civil Review No.253 of 2019. Civil Review No.253 of 2019 was allowed on 07.12.2023 while restoring the present L.P.A. No.666 of 2018.

3. Merit of the case has already been elaborately discussed while reproducing the relevant statute and certain internal communication among the official respondents to the extent that appellant is entitled to benefit of Regulation No.49 of University Grant Commission Regulations, 2005 read with Regulation No.2 of University Grant Commission Regulations, 1991, which are extracted in paragraph nos.3 and 4 in the order dated 07.12.2023 passed in Civil Review No.253 of 2019. The present L.P.A. No.666 of 2018 was heard on 18.04.2024 and the following order was passed:

“In the Civil Review No. 253 of 2019 decided on 07.12.2023, this Court has taken note of dates and events. Prima facie, appellant’s appointment to the post of permanent part-time Lecturer would relates back to 14.11.1989. Resultantly, second proviso to Regulation No. 2 of University Grant Commission Regulations, 1991 assists appellant’s claim.

**Underline supplied.**

2. Now what remains in the present *lis* is whether Item No. 49. Statutes for appointment of part-time Teachers vide letter No. BSU-8/2005 – 1614/GS(I), dated 29.06.2005 stipulates that permanent part-



time Lecturer/Teacher will also be entitled to the scheme of career advancement from Lecturer to Senior Scale Lecturer, Selection Grade Lecturer/Reader and Professor. However, they will be entitled to half/proportionate increments/dearness allowance and other permissible benefits, which would be effective from 29.06.2005. On the other hand, petitioner's claim is with reference to July, 2002. In this regard, he has not produced any material to show that he is entitled to other monetary benefits with reference to letter dated 29.06.2005 with retrospective effect from July, 2002. In this regard, learned counsel for the University, *Md. Nadim Seraj* is hereby directed to apprise on the next date of hearing whether the appellant is entitled to have the benefit of letter dated 29.06.2005 with effect from 29.06.2005 or with effect from July, 2002 on the next date of hearing.

3. Relist this matter on 02.05.2024.”

**Underline supplied.**

4. Thereafter, 5<sup>th</sup> respondent (newly added respondent) has filed counter affidavit along with Annexures-R/1 to R/4. In paragraph-8, it is pleaded as under:

“8. That as the aforementioned appointment through Commission was made only after 1991 (i.e. 30.07.1998) as such the benefit of the above said exemption cannot be granted to the appellant.



Hence, in this light the claim of the appellant for exemption/relief on the basis of Regulation-2 of the University Grant Commission Regulation, 1991 is not maintainable and is liable to be rejected. Therefore, the appellant is not entitled to any higher service benefits arising out of letter no-BSU-8/2005-1614/GS(1) dated 29.06.2005.”

5. Except the aforementioned contention, 5<sup>th</sup> respondent has not appraised the Regulation No.2 of University Grant Commission Regulations, 1991 read with Letter No.BSU-8/2005-1614/GS(1) dated 29.06.2005 is applicable with effect from 29.06.2005 or 2002 as claimed by the review petitioner.

6. At this stage, learned counsel for the University submitted that paragraph-6 of the counter affidavit of the 5<sup>th</sup> respondent is to be taken note of. Regulation No.2 of University Grant Commission Regulation, 1991 has already been taken note of while deciding Civil Review No.253 of 2019 read with internal communication insofar as service particulars of the appellant. Thus, appellant has made out a case so as to interfere with the order of the learned Single Judge.

7. Accordingly, the order of the learned Single Judge dated 18.04.2018 passed in C.W.J.C. No.6838 of 2017 stands set aside and the present L.P.A. No.666 of 2018 stands allowed.



8. The concerned respondents-University are hereby directed to extend all service and monetary benefits to the appellant in the light of Regulation No.2 of University Grant Commission Regulation, 1991 read with letter dated 29.06.2005 with effect from 29.06.2005 to the extent of half pay salary and other allowances which are narrated in the relevant clause. The same shall be calculated and disbursed in favour of the appellant within a period of three months from the date of receipt of this order, failing which the appellant is entitled to interest on belated settlement at the rate of 6% per annum.

9. Pending Interlocutory Application(s), if any, stands disposed of.

**(P. B. Bajanthri, J)**

**( Alok Kumar Pandey, J)**

P.S./-

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