

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9183 of 2019

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Birendra Kumar Son of Late Rajendra Rai Resident of Village-Sherpur, P.S.-
Vidhyapatnagar, District-Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Education Department, Government of Bihar, Patna
2. The Director, Higher Education Department , Government of Bihar, Patna.
3. The Joint Secretary, Government of Bihar, Patna
4. The Vice-Chancellor, Lalit Narayan Mithila University, Kameshwar Naagar, Darbhanga
5. THE Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
6. The Finance Officer, Lalit Narayan Mithila Univeristy, Kameshwar Nagar, Darbhanga.
7. The Assistant Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
8. The Deputy Registra-1 (DR-1), Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
9. The Principal, R.B. College Dalsingsarai, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ranjan Kumar
For the Respondent/s	:	Mr.Madhaw Prasad Yadaw, GP-23
		Mr. Arvind Kumar
For the University	:	Mr. Bindhyachal Rai
		Mr. Chandan Kumar

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 15-02-2024

Heard learned counsels for the parties.

2. This writ application has been filed for issuance of writ in the nature of mandamus or any other appropriate writ/writs, order/orders, direction/directions directing the respondent authorities to promote the petitioner to Class-III post as Clerk (L.D.C.) in the said college from the 4th Grade employee as he



had already passed the departmental examination for promotion of non-teaching employee-2015 and fulfilled all the conditions of merit similarly like other 4th Grade employees of Samastipur College, Samastipur under the L.N.M.U. Darbhanaga, namely, Rajdeo Rai and Asharfi Rai, who have been promoted to Class-III post (L.D.C.).

3. It is submitted by learned counsel for the petitioner that the petitioner was appointed as 4th Grade employee of R.B. College, Dalsingsarai, Samastipur in Pay Scale of Rs. 2550-3200/- on compassionate ground of his father through the recommendation of the Compassionate Appointment Committee on 30.03.2007 and Registrar of L.N.M.U. Kameshwar Nagar, Darbhanga issued notification vide letter no. 9551-9682/07 dated 21.04.2007. In the light of the said notification, he joined his service as 4th grade employee on 21.04.2007 in the said college and at the time of the appointment, the qualification of the petitioner was Intermediate passed in the year 1995. Thereafter, with the prior permission of the Registrar of L.N.M.U., the petitioner appeared in Bachelor of Arts in History and passed with 1st Division in the year 2014 through distance education, which is also evident from the certificate issued on 25.04.2015.



4. It is further submitted that L.N.M.U. Kameshwar Nagar, Darbhanga issued the Hall Ticket in favour of the petitioner for departmental examination for promotion of non-teaching employees, 2015 and accordingly, petitioner appeared in 1st and 2nd sitting of the examination and got qualified in the written examination and also appeared in viva-voce scheduled to be held on 08.12.2015 and fulfill all the conditions regarding the documents pertaining to his service and educational records for verification and thereafter, succeeded in merit, but he was not promoted to the post of Grade III Clerk (L.D.C.), whereas the similarly situated employees, namely, Rajdeo Rai and Asharfi Rai and others were promoted as 3rd Grade Clerk (L.D.C.). The promotion of the petitioner has been ignored by the University due to his appointment on compassionate ground in Class-IV post, but after appointment, petitioner has come in regular service of R.B. College, Dalsingsarai and therefore, he should be treated equally as other Class IV employee.

5. 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.

6. Learned counsel for the University submits that the petitioner is not entitled for promotion on Class III post as he was appointed as Class IV employee on compassionate ground.

7. There can be no dispute in respect of this claim. Petitioner upon his appointment has become an employee of the University and hence, he has to be given equal treatment vis-a-vis other class IV employees and has to be considered for all benefits under the Rules available to class IV employees.

8. In view of the aforesaid discussions, learned counsel for the University is directed to take necessary steps in accordance with law and in the light of the order passed in CWJC No. 8532 of 2008 vide order dated 19.07.2011.

9. In the circumstances, the writ application is allowed with a direction to the respondent University to consider the case of the petitioner for his promotion/upgradation to class III post if the same has been granted to other class IV employees, appointed later, under the Rules.



10. It goes without saying that if the petitioner is promoted, he would be entitled to other consequential benefits – monetary as well as seniority in the grade as per law.

11. The petitioner is 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 petitioner and take a decision within a period of three months from the date of filing such representation.

12. It is also made clear that if the promotion of the petitioner 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.

13. 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

