

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9672 of 2014

Dayanand Prasad S/o Late Kamleshwari Yadav R/o Sandalpur Gumti No. 6,
P.S- Kazim Bazar, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through Education Commissioner Higher Education Bihar Patna.
2. Director, Higher Secondary Education Govt. of Bihar, Patna.
3. Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur
4. Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur.
5. Principal, R.D. and D.J. College, Munger.
6. Principal T.N.B. College, Bhagalpur.
7. The Magadh University, Munger through its Registrar.
8. Vice Chancellor, Munger University, Munger.
9. The Munger University, Munger through its Registrar.
10. The Vice Chancellor, Munger University, Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Dhirendra Nath Jha
For the State	:	Mr Iqbal Asif Niazi, AC to GP 5
For T.M.B. University	:	Mr. Amit Kumar Jha
For Munger University	:	Mr. Ritesh Kumar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 16 08-04-2024 1. The petitioner has filed this writ application seeking a direction to the University for regularization of his services on Class-IV post of Night Guard.
2. The case of the petitioner is that he was appointed on daily wages earlier in the year 1991 and subsequently, from 01.03.1997, on vacant sanctioned post of Night Guard by the Principal of the R.D. and D. J. College, Munger (in short, ‘the College’). On 17.01.1998, the



Principal of the College sent a letter to the Vice Chancellor of the T.M.B. University, informing that the petitioner was appointed under exigency on daily wages against the vacant sanctioned post of Night Guard and hence be adjusted in the services of the University.

3. In the year 2001, the University decided to fill up the vacancy by open advertisement, for which, on 18.10.2001, an advertisement was published in the news paper and the petitioner appeared in the interview long with other candidates on 27.02.2022. Since thereafter, nothing was done. The petitioner submitted applications on 08.08.2002 and 08.02.2003, which was forwarded by the Principal of the College to the T.M.B. University for regularization of the services of the petitioner as he has been working since 1991.
4. The Registrar of the University issued an order, date 30.08.1999, whereby the Principal of the Colleges running under the University were directed not to take work from the persons who were engaged on daily wages on Class-III and IV posts.
5. The said order was challenged in different writ petitions by Nikhil Kumar Jha and others, in CWJC No. 11854 of



1999 and this Court quashed the order, dated 30.08.1999 and a direction was issued to regularize the services of the writ petitioners. Similar writ application, bearing CWJC No. 7749 of 2002 was disposed of on 13.04.2007.

6. In the light of the said orders, a three-member committee was constituted vide notification, dated 15.10.2009, to examine the manner, mode and type of appointment.
7. Learned Counsel for the petitioner submits that the petitioner was eligible for regularization but his records were not placed before the Committee and his name was not sent for inclusion in the select list. The petitioner was appointed in exigency and he worked for about ten years till he was restraint from working in the year 2002. He has still yet not attained the age of superannuation and the post is still vacant.
8. Since the petitioner was not a party to the writ applications, bearing CWJC No. 7749 of 2002 and other analogous cases, whereby similarly situated persons were regularized by the University, the petitioner has been left out from regularization. This fact has been taken note of by the Hon'ble Chancellor of the Universities of Bihar, in his order, dated 03.12.2007.



9. Learned Counsel for the Munger University as well as the State argued that the petitioner himself has mentioned in his application addressed to the Vice Chancellor of the University that he has worked from 08.08.1991 to 25.01.1992, i.e. for only three to four months. The petitioner was appointed by the Principal of the College without permission of the Vice Chancellor of the University on an unsanctioned post. The Principal of a college is not the competent authority to appoint, as per Section 10 (6) of the Bihar State Universities Act. The appointment of Class-III and IV posts vests with the Vice Chancellor of the University. The petitioner has worked from 08.08.1991 to 24.10.1991, from 03.11.1991 to 25.01.1992 and then from 11.10.1996 to 30.11.1996 and ultimately from 01.02.1996 to 28.02.1997, i.e. for about one year 07 months and 27 days. As per the own case of the petitioner, he is not working after 2002.

10. I have heard learned Counsel for the parties concerned and have gone through the materials available on record.

11. As per the case of the petitioner, he worked lastly in the year 2002 and, thereafter, the petitioner was not allowed to work. The writ petitions were filed by some of the



temporary employees for their regularization between the years 1999 and 2007. On the basis of the order passed by this Court and the recommendation made by the three-member committee, some of the temporary employees were regularized in the year 2013, thereafter the petitioner has filed the present writ application in the year 2014, seeking relief of regularization.

12. It transpires that the petitioner was not working between the years 2002 and 2014, i.e. for about 12 years. He was appointed by the Principal of the College on an unsanctioned post. He was not working as on the date of filing of the present writ application.

13. As per the law laid down by the Supreme Court, in the case of **State of Karnataka v. Umadevi**, reported in **(2006) 4 SCC 1**, one has to work continuously for ten years for consideration of one's case for regularization. No rule/law/scheme framed by the State or the University has been brought on record for regularization.

14. Since, the initial appointment of the petitioner was neither made by the competent authority nor against a sanctioned post and no regularization policy has been brought on record by the petitioner and further the petitioner has



failed to show that he has continuously worked for a pretty long period on a sanctioned post, I find no merit in this writ application.

15.This writ application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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