

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11309 of 2014

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Md. Nurulain S/o Late Md. Zakaria R/o Mohalla - Nabiganj (Near Dada Saheb Ka Majar) P.O. Chapra, P.S. Bhagwan Bazar, District - Saran

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Higher Education, Government of Bihar, Patna
2. The B.R.A. Bihar University, Muzaffarpur through its Vice Chancellor
3. The Registrar, B.R.A. Bihar University, Muzaffarpur
4. Jai Prakash University, Chapra through its Vice - Chancellor
5. The Registrar, J.P. University, Chapra
6. The Finance Advisor, Jai Prakash University, Chapra
7. The Finance officer, Jai Prakash University, Chapra
8. The Principal, Rajendra College, Chapra

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S. Arshad Alam, Advocate Ms. Anjum Perveen, Advocate Md. Shadab Alam Wazdi, Advocate Mr. Prafulla Kumar Jha, Advocate
For the Respondent/s	:	Mr. Hansraj, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 01-03-2024

1. Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The petitioner has filed the instant application for directing the respondents to ensure payment of the actual/consequential financial benefits of memo no.3769 (R) dated 15.7.2013 issued under the signature of the Registrar, Jai Prakash University, Chapra whereby the services of the petitioner, an Accounts Assistant in Rajendra College, Chapra



was regularised against sanctioned vacant post in the prescribed scale of pay plus admissible allowances with retrospective date ie the 21st April, 1981.

3. The case of the petitioner in brief is that he was appointed as an Assistant on temporary basis on 21.4.1981. In spite of communications by the College to the University, the services of the petitioner was not regularised. A Co-ordination Committee was set up in the year 2007 for preparing a report towards regularisation of the employees working in different colleges of the University. They submitted their recommendation of employees for their absorption/regularisation and the list submitted by them contained the name of the petitioner at serial no.1. The service of the petitioner not having been regularised, he moved this Court in CWJC no.7593 of 1994 which was disposed of by order dated 24.1.1996, without going into merits of the case with a liberty to the petitioner to pursue the matter before the Vice Chancellor in accordance with law. Accordingly, the petitioner filed a representation, however, the prayer of the petitioner for regularisation was rejected by the then Vice Chancellor and communicated to the petitioner by letter dated 20.5.1996 by the Registrar, Jai Prakash University.



Subsequently, on the petitioner once again representing his case, the respondent University came out with an office order vide memo no.3769 (R) dated 15.7.2013 issued under the signature of the Registrar, Jai Prakash University, Chapra regularising the service of the petitioner as an Accounts Assistant, Rajendra College, Chapra against the sanctioned vacant post in the prescribed scale of pay with admissible allowances with retrospective date ie 21st April, 1981.

4. It is contended by learned counsel appearing for the petitioner that inspite of order regularising the service of the petitioner having been passed on 15.7.2013 with admissible allowances payable with retrospective effect from 21.4.1981, the petitioner has not been paid the consequential benefits as a result thereof and which has led to filing of the instant writ application in the year 2014.

5. Counter affidavits have been filed on behalf of the B.R.A. Bihar University as also the Jai Prakash University.

6. Learned counsel appearing for the Jai Prakash University submits that the claim of the petitioner for regularization of his services already stood rejected by the University vide letter dated 20.5.1996. The only option available to the petitioner was to file an appeal against the said order of



rejection before the Hon'ble Chancellor. It was subsequently that on the then incumbent having been appointed as acting Vice Chancellor, though he was not competent to regularise the service of the petitioner that the order as contained in Annexure-9 dated 15.7.2013 was passed regularising the service of the petitioner with admissible allowances with retrospective effect ie 21.4.1981. It is further submitted that the matter of regularisation of service being a policy decision, the acting Vice Chancellor was not competent to take the decision.

7. Having heard learned counsel for the parties and having perused the material on record, in the opinion of the Court, very limited question arises in the instant application. It is the contention of learned counsel for the petitioner that the service of the petitioner was regularised vide office order dated 15.7.2013 passed by the Registrar, Jai Prakash University, Chapra and the same has been brought on record as Annexure-9 to the writ application, the contents of the order is reproduced herein below for ready reference:

JAI PRAKASH UNIVERSITY, CHAPRA
OFFICE -ORDER

In compliance of the orders of Hon'ble High Court, Patna contained in a writ CWJC No.7593/04, Md. Nurullain Vs. the State of Bihar and others the Vice-Chancellor has been pleased to regularize the services of Md. Nurullain, Accounts Assistant, Rajendra College, Chapra against one of



the sanctioned vacant posts in the prescribed scale of pay plus admissible allowances with retrospective date the 21st April 1981.

He is directed to remain on duty as usual.

(Prof. B.P.Kumar)
Registrar

Memo no. 3769 (R)

Dated 15.07.2013

8. A bare reading of the said order would clearly show that the same talks about payment of the admissible allowances to the petitioner with retrospective date ie 21st April, 1981. Though counter affidavits have been filed on behalf of the Jai Prakash University and other respondents contending that the acting Vice Chancellor during whose tenure the said order of regularisation as contained in Annexure-9 was passed was not competent to pass such an order, however, it is not in dispute that the said order has remained in existence for more than ten years and inspite of filing of counter affidavit and a supplementary counter affidavit in the instant application, there is no averment with respect to the same having been reviewed/recalled/modified or having been changed in any manner.

9. Thus, in view of the facts and circumstances of the case, the service of the petitioner having been regularised on sanctioned vacant post in the prescribed scale of pay with admissible allowances with retrospective effect ie the date 21st



April 1981, in the opinion of the Court, the petitioner is entitled for payment of the consequential benefits as a result of the same.

10. The Registrar, Jai Prakash University is directed to pay the consequential benefits arising out of the order dated 15.7.2013 (Annexure-9) contents of which has been reproduced herein above within a period of four months from the date of receipt/production of a copy of this order.

11. The writ application stands allowed.

(Partha Sarthy, J)

Saurabh/-

AFR/NAFR	
CAV DATE	
Uploading Date	04.03.2024
Transmission Date	

