

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4262 of 2016

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Kewal Narayan Choudhary Son of late Badri Narayan Choudhary, resident of Rani Ghat, Bhuteshwar Nath Dham, Mahendru, P.S.- Sultanganj, District-Patna.

... .. Petitioner/s

Versus

1. The Patna University
2. The Vice Chancellor, Patna University, Patna.
3. The Registrar, Patna University, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Abhinav Srivastava
For the Respondent/s : Mr. Manish Dhari Singh

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 13 26-09-2024 1. Heard learned Counsel for the parties concerned.
2. The petitioner, who was working as a Peon and was compulsorily retired as per Section 64 (b) of the Patna University Act, 1976 (in short, as '1976 Act'), has filed the present writ application for quashing the order, dated 16.03.2012, issued by the Registrar of the Patna University, under the orders of the Vice Chancellor of the Patna University, by which the petitioner has been compulsorily retired.
3. The petitioner was appointed as a Peon in the services of the Patna University on 03.01.1976. He was found in drunken condition on duty, as reported by the Head of the Geology Department, vide letter, dated 05.01.2012.
4. The petitioner preferred an appeal before the chancellor



of the Universities and the Chancellor referred the matter to the Vice Chancellor of the Patna University, vide Governor Secretariat letter no. PU-12/2014-339/GS, dated 31.01.2019, for deciding the issue.

5. Learned Counsel for the petitioner submits that charge was framed against the petitioner for misconduct alleged against him with regard to other incident, in which after enquiry the petitioner was given punishment of stoppage of two increments with cumulative effect. However, in exercise of power, under Section 64 (b) of the 1976 Act, the respondent authorities, without holding any enquiry and without framing any charge, has passed the impugned order of compulsory retirement of the petitioner.
6. On the other hand, learned Counsel for the University submits that the petitioner has a chequered history and earlier in the year 2010, the petitioner was put under suspension, vide memo no. 170, dated 26.02.2010 on the charges of misbehaviour with Finance Officer in drunken condition, procuring loan from Co-operative Bank by faking the signature of the Registrar, unauthorized construction in the quarter temporarily allotted to him, threatening the employees of the Establishment Section



on 12.08.2009, assaulting guard of the Patna College on 17.06.2009 and abusing another peon, of the Establishment Section on 10.06.2009, the Head of the Geology Department, Patna University, informed the University Administration, vide letter, dated 05.01.2012, that the petitioner was found in the Office under excessive influence of alcohol and left the office soon after marking the presence/attendance roll and has vitiated the atmosphere of the office.

7. Taking into consideration the misdeeds of the petitioner and the adverse remarks of the controlling officers, the Vice Chancellor of the Patna University, in exercise of power conferred upon him under Section 11 (16) and Section 64 (b) of the 1976 Act, compulsorily retired him from the service. The order of the Vice Chancellor was notified vide Office Order, issued under memo no. 327, dated 17.03.2012.
8. Having heard learned Counsel for the parties concerned and having considered the facts of the case, I am of the opinion that the appeal filed before the Chancellor of the Universities by the petitioner against the order of compulsory retirement passed by the Vice Chancellor



cannot be relegated to the Vice Chancellor to dispose the appeal. The Vice Chancellor cannot sit in appeal of its own order. Under Section 10 (4) of the 1976 Act, the Chancellor has been given the authority to annul any proceeding or orders of the University, which are not consistent with this Act, Statutes, Ordinance or regulation or for which there are not sufficient reasons. Under Section 11 (17) of the 1976 Act, the Chancellor is the appellate authority against the order of the Vice Chancellor imposing the penalty of dismissal, removal from service or reduction in rank.

9. Since the appeal of the petitioner has not been decided by the Chancellor of the Universities, I feel it expedient to request the Chancellor of the Universities to decide the appeal filed by the petitioner within a reasonable period of time, preferably within a period of four months from the date of receipt/production of a copy of this order
- 10.If the copy of the appeal is not available in the Governor Secretariat, the petitioner shall be at liberty to file a copy or grounds of appeal afresh before him within a period of two weeks from today.
11. With the aforesaid observation and direction, this writ



application is disposed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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