

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6858 of 2017

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Shri Vishwanath Roy S/o Late Charitra Roy, Vill P.O.- Gopalpur East, Distt.-
Samastipur.

... .. Petitioner/s

Versus

1. Lalit Narayan Mithila University
2. State Govt. of Bihar through its chief Secretary, Main Secretariat, Patna.
3. The Director, Higher Education, State Govt. of Bihar, Ground Floor, New Secretariat, Vikash Bhawan,

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar
For the Respondent/s : Ms. Binita Singh, SC-28

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 3 24-06-2024 1. The petitioner has filed the present writ application for direction to the respondent-authorities, including the Lalit Narayan Mithila University, to reinstate and regularize the petitioner with full backwages and benefits for the past period.
2. The case of the writ petitioner is that the petitioner was appointed as Laboratory Boy (Lab Boy) on 11.01.1980 on verbal orders of the Vice-Chancellor of the University, on daily wages. The letter of appointment of the petitioner is annexed at Annexure-1.
3. In the year 1988, the University took a policy decision to absorb the services of its employees, who were working on daily wages in different department. Consequently, the services of 25 employees, who were working on daily wages



in different departments, were absorbed in the pay scale of 375-5-445 FB-7-480 plus other admissible allowances, by the order dated, 12.02.1988, of the Vice Chancellor of the University.

4. Thereafter, in the year 1991, the respondent no.1 constituted a three member committee for consideration of regularization of daily wages employees, including the petitioner. The said committee found the service of the petitioner satisfactory and recommended for regularizing his services. But the recommendation of the committee was overlooked and service of the petitioner was not regularized. The recommendation of the Committee was of the year 1991.

5. Further, the specific case of the petitioner is that he worked as a Lab Boy till 1992 on daily wages and on 01.04.1992 he fell seriously ill and was not in a position to attend his duties. After recovering from illness, the petitioner came to attend his duties on 07.05.1992 with medical documents, but his services were terminated in a most arbitrary manner vide letter, dated 13.05.1992, on the ground that he was absent from his duty.

6. Subsequently, fourth Grade employees of the University were absorbed vide order, dated 14.05.1993. On 21.06.1993, the Joint Secretary of the University recommended



for reinstatement of the petitioner on daily wages. On 03.06.1997, the Director, Higher Education, Department of Bihar, directed the Joint Secretary of the University to consider the case of the petitioner for regularization at their level.

7. The Joint Secretary of the University called the petitioner for interview held on 14.08.1997 and in pursuance thereto the petitioner participated and submitted his documents, but was not selected in the interview.

8. Learned counsel for the petitioner submits that at the time of appointment on daily wages, the post of Lab Boy in the Post Graduate Department of Psychology in the University was vacant and he was being paid from the contingent fund of the University. The petitioner fell seriously ill and could not inform about his illness as there was no one in the family who could have informed about the illness of the petitioner.

9. He next submits that in the year 1988 and 1992, 25+17 employees, who were working on daily wages in different department, were absorbed, but the petitioner was not absorbed.

10. The petitioner has been running from pillar to post for regularization of his services and had been making various requests and reminders verbally and visiting personally



to the concerned officials of the respondent No.1. Lastly, the petitioner made representation, dated 30.12.2016, to the Vice Chancellor of the University, but of no avail. Hence, the writ application has been filed.

11. On other hand, learned counsel for the University submits that the petitioner was appointed on verbal instruction of the Vice Chancellor by the Head of the Department, Post Graduate Department of Psychology in the University without undergoing any process of selection. He worked for 9 years and then went on unauthorized leave and his service was terminated in the year 1992 itself.

12. The petitioner is not working since 13.05.1992 and now in the year 2017 i.e after a lapse of about 25 years have approached this court for reinstatement and regularization. The initial appointment of the petitioner on daily wages was not by the competent authority.

13. I have heard learned counsel for the parties and have considered the rival submission and material available on records.

14. The service of the petitioner was terminated in the year 1992. The petitioner did not challenge the order of termination in any court and after lapse of about 25 years has



approached this Court for direction to the authorities to reinstate and regularize the petitioner on the post of Lab Boy. The petitioner has contended that he filed several representation on various dates and lastly on 13.12.2016.

15. The law in this regard has been reiterated by the Supreme Court in the judgment reported in **2022 (15) SCC 536 (Surjeet Singh Sahni v. State of Uttar Pradesh and Ors.)**, in which, the Supreme Court after observing catena of decisions has held that mere representation does not extend the period of limitation and the aggrieved person has to approach the Court expeditiously and within a reasonable time. If it is found that the petitioner is guilty of delay and laches, the High Court should dismiss it at the threshold and ought not to dispose of the writ petition by relegating the writ petitioner to file a representation and/or directing the authority to decide the representation, once it is found that the writ petitioner is guilty of delay and laches.

16. The Full Bench of this Court in judgment, reported in **2013 (1) PLRJ 964 (Ram Sevak Yadav v. The State of Bihar and ors.)** in paragraph 43, has answered the reference as followed:

“We therefore sum up our conclusions and answer the reference as follows : -



A) *Uma Devi* (supra) prohibits regularisation of daily wage, casual, ad-hoc and temporary appointments, the period of service being irrelevant;

B) An illegal appointment void ab-initio made contrary to the mandate of Article 14 without open competitive selection cannot be regularised under any circumstances.

C) Irregular appointments can be regularized if the appointment was made by an authority competent to do so, it was made on a vacant sanctioned post, in accordance with Article 14 of the Constitution with equal opportunity for participation to others eligible by competitive selection and the candidate possessed the eligibility qualifications for a regular appointment to the post.

D) The appointment must not have been an individual favour doled out to the appointee alone and the person must have continued in service for over ten years without intervention of any court orders.”

17. The writ petitioner has failed to make out a case



of interference by this Court on two counts, first, the writ application has been filed after a lapse of about 25 years from the date of termination of the petitioner and second, the initial appointment of the petitioner on daily wages was contrary to the mandate of the Article 14, as the appointment was made without any advertisement and on the basis of verbal orders.

18. In the result, this writ application is dismissed.

(Anil Kumar Sinha, J)

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