

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4203 of 2017

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1. Ashok Tiwari, son of Shri Sadhu Sharan Tiwari resident of At - Maner, P.O. - Maner, P.S. - Maner, District - Patna.
 2. Indu Kumari, wife of Late Krishna Bahadur Singh resident of At - Sarar, P.O. - Pipra, P.S. - Barauli, District - Gopalganj.
 3. Rajeev Ranjan Singh, son of Late Bhrigunath Singh resident of Pahlejpur, P.O. - Laxmiganj, P.S. - Goreakothi, District - Siwan.
 4. Suresh Prasad Thakur, son of Late Gauri Thakur resident of At - Goreakothi, P.O. - Goreakothi, P.S. - Goreakothi, District - Siwan.
 5. Bhuneshwar Sah, son of Late Jahuri Saw resident of Village - Rahimpur Pachkhutti, P.O. - Pachkhutti, P.S. - Khagaria, District - Khagaria.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Jai Prakash University, Chapra through its Registrar.
3. Vice Chancellor, Jai Prakash University, Chapra.
4. Registrar, Jai Prakash University, Chapra.
5. Principal, Narayan Mahavidyalaya, Goreakothi, P.S. - Goreakothi, District - Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Abhinav Srivastava
For the State	:	Mr. Mukund Mohan Jha, AC to GP 27
For J. P. University	:	Mr. Manoj Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 6 24-09-2024 1. Five above named petitioners have approached this Court for a direction to the respondent authorities, including the State of Bihar and the J. P. University, Chapra, (In short, 'the University') to regularize the services of the petitioners against their respective non-teaching post under the staffing pattern in Narayan Mahavidyalaya, Goreakohi, Siwan, (herein after referred to as the



‘College’), which is a constituent unit of the University.

2. The facts are not disputed to the extent that the petitioners were appointed on Class-III and Class-IV post pursuant to an advertisement, dated 05.03.1986, issued by the Principal of the College (Annexure 1). The petitioners appeared in the interview before the Selection Committee and were appointed, vide letter, dated 20.03.1986 on different Class-III and Class-IV posts of the College. The petitioners subsequently joined on 21.03.1986 and since then they have been working on their respective posts continuously for about three decades.
3. Learned Counsel for the petitioners argued that the State Government, vide letter, dated 17.11.1998 (Annexure C to the counter affidavit filed by the respondent no. 1) called for a report from all the Universities of Bihar, in attached format, regarding the details of services, including the attendance register and payment register, of the employees under their colleges for the purpose of sanction of the posts under the norms of staffing pattern.
4. In pursuance thereof, the details of the petitioners were forwarded by the College to the University, which are part of Annexure 7 series. He further argued that a list of



employees, including the name of the petitioners, were submitted by the Principal of the College to the Registrar of the University on 16.01.1999 for the purpose of sanction of the posts. However, the State Government, vide letter, dated 29.06.2007 (Annexure 9) sanctioned only 26 posts of non-teaching employees, who were working under the staffing pattern in the College, and the name of the petitioners have been left out.

5. Learned Counsel for the petitioners further submits that the case of petitioners is fully covered by the decision of the Full Bench of this Court, rendered in the case of **Braj Kishore Singh and Others v. The State of Bihar and Others**, reported in **1997 (1) PLJR 509** and the decision of the Supreme Court, in the case of **Amarkant Rai v. The State of Bihar and Others**, reported in **(2015) 8 SCC 265**. The respondent authorities are obliged to consider the claim of the petitioners for regularization in the light of the aforesaid decisions and further in the light of the decision, in the case of **State of Karnataka v. Umadevi (3)**, reported in **(2006) 4 SCC 1**.
6. On the other hand, the stand of the University and the State is that the petitioners were appointed by the



Principal of the College, which is in violation of Section 10 (6) of the Bihar State Universities Act. Further, only 26 posts of non-teaching employees were sanctioned by the State Government, on which the employees appointed prior to 10.05.1986 has been absorbed/adjusted.

7. I have heard learned Counsel for the parties concerned.
8. It is not disputed that the petitioners were also appointed prior to 10.05.1986 after following due process of appointment.
9. In the case of **Amarkant Rai** (supra), the Supreme Court, while dealing with the issue of regularization/absorption of the employees of Lalit Narayan Mithila University, rejected the contention of the respondent-State regarding the validity of the appointment made by the Principal and said that the respondents cannot contend that the appointment made by the Principal was invalid, particularly, when the employees have worked for a considerable period of time.
10. The petitioners have also worked for about three decades and are still continuing on their respective posts. They were appointed prior to 10.05.1986 and vide letter, dated 21.08.2014 (Annexure 14) issued by the Joint Secretary



of the Education Department, the State Government called for relevant materials/documents from the Registrar of the University for creation of posts and payment of the salary to those employees working under the staffing pattern. This letter relates to the petitioners, as would be evident from the opening line of the letter itself, which says, 'Ashok Tiwari and Others'.

11. Regards being had to the submissions advanced on behalf of the parties and the materials available on record, the objection raised by the respondents that the appointment of the petitioners was invalid because the same was made by the Principal of the College is not acceptable for the simple reason that the petitioners have worked for about 28 years and the Supreme Court has rejected the same contention of the respondents, in the case of **Amarkant Rai** (supra).

12. Accordingly, the University is directed to send all the details and documents relating to the petitioners for regularization/creation of posts in terms of the staffing pattern to the Additional Chief Secretary, Education Department, Bihar, within a period of one month from the date of receipt/production of a copy of this order.



13. After receipt of the relevant documents from the University, the Additional Chief Secretary shall be obliged to decide the claim of the petitioners in accordance with law and in the light of the decisions, rendered in the cases of **Amarkant Rai** (supra), **Braj Kishore Singh** (supra) and **Umadevi (3)** (supra), within a period of three months from the date of receipt of relevant documents from the University.
14. With the aforesaid observations and directions, this writ application is disposed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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