

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20732 of 2014

Khursheed Kareem Urf Masoom, Son of Late Prof. K.M.A. Haseeb, Resident of Mohalla Mirza Hayat Baig, Bhigo, Post Office Lal Bagh, Police Station Laheriasarai, District Darbhanga.

... .. Petitioner/s

Versus

1. The Vice Chancellor, Lalit Narayan Mithila University Kameshwar Nagar, Darbhanga.
2. The Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
3. The Principal, Millat College, Darbhanga.
4. Jalaluddin Muzaffar, Assistant, Millat College, Lahariasarai, Darbhanga.
5. The State of Bihar, through the Additional Chief Secretary, Education Dept., Govt. of Bihar, Patna.
6. The Director, Higher Education, Govt. of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Syed Firoz Raza, Advocate Mr. Shahrukh Shiddiqui, Advocate
For the State	:	Mr. Mrigendra Kumar, AC to GP-20
For the University (L.N.M.U)	:	Mr. Bindhyachal Rai, Advocate
For the Resp. No.4	:	Mr. Anjani Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 28-02-2024

1. Heard learned counsel for the petitioner, learned counsel for the respondent-State of Bihar and learned counsel for the Lalit Narayan Mithila University.

2. The petitioner has filed the instant writ application for commanding the respondents to grant promotion to the petitioner from Routine Clerk to the post of Upper Division Clerk with effect from 12.12.1996 instead of 1.1.2006 as has been given by the order dated 21.9.2012 (Annexure-7) issued



under the signature and the Registrar, Lalit Narayan Mithila University.

3. The case of the petitioner in brief is that on the death of his father, the petitioner was appointed on compassionate grounds as a Routine Clerk in Millat College, Darbhanga under the Lalit Narayan Mithila University on 17.8.1991. The case of the petitioner and others were considered by the Promotion Committee in its meeting held on 12.12.1996 and it recommended the petitioner for promotion on the post of Accounts Assistant. The minutes of the meeting of the Promotion Committee held on 12.12.1996 has been brought on record as Annexure-3/A to the writ application. It is submitted that pursuant to the directions of this Court as contained in order dated 3.4.2012 passed in CWJC no.4437 of 2011, the University came out with an office order dated 21.9.2012 under the signature of the Registrar, Lalit Narayan Mithila University granting promotion to the petitioner on the post of Upper Division Clerk with effect from 1.1.2006. The same should have been granted with effect from 12.12.1996 and hence the instant writ application.

4. The application is opposed by learned counsel appearing for the State of Bihar and also by learned counsel for



the University. It is submitted by learned counsel appearing for the University that though it is correct that the Promotion Committee in its meeting dated 12.12.1996 recommended the case of the petitioner for promotion, however, the same was not granted in view of the fact that the petitioner was appointed on compassionate ground as also in view of the provision as contained in point no.10 of the letter of the State Government dated 21.8.1995 (Annexure-R1/A to the counter affidavit of the Vice Chancellor). It is submitted that the petitioner having been appointed on compassionate was rightly not granted promotion pursuant to the recommendation of the Promotion Committee.

5. Learned counsel appearing for the respondent-State of Bihar in reference to the counter affidavit filed on behalf of respondent nos.5 and 6 submitted that the petitioner was appointed on compassionate ground on 15.6.1993 and as the date of appointment was later shifted to be with effect from 17.8.1991, which was clearly illegal and the same could not have been done. It is further submitted that pursuant to the resolution no.8825 dated 20.12.2005, Finance Department, Government of Bihar, the petitioner having been appointed prior to 20.12.2000 by virtue of the said resolution became an Upper Division Clerk. The post of Accounts Clerk-cum-Cashier was



not a promotional post of Routine Clerk and the petitioner already having become an Upper Division Clerk with effect from 20.12.200 is not entitled for the relief prayed for herein.

6. Having heard learned counsel for the parties and having perused the material on record, it transpires that the petitioner was appointed on compassionate ground as a Routine Clerk in Millat College, Darbhanga on 17.8.1991. He along with others filed CWJC no.7323 of 2005 for payment of arrears of salary etc. which was disposed of by order dated 30.4.2007 giving liberty to the petitioners therein to file their representation before the respondent University who was to dispose of the representation by a reasoned order. In the meantime, the Promotion Committee of the University in its meeting held on 12.12.1996 recommended the case of the petitioner for promotion on the post of Accounts Assistant. However, the said recommendation not having been acted upon, the petitioner challenged the same by filing CWJC no.4437 of 2011. The order impugned passed therein denying promotion of the petitioner was on the ground that the initial appointment of the petitioner was on compassionate ground. The order impugned as contained in Annexure-1 was quashed by order dated 3.4.2012 (Annexure-6) and the matter was remitted back



to the Vice Chancellor for fresh consideration within a reasonable time frame. It is pursuant thereto that the respondent University thereafter came out with an order dated 21.9.2012 (Annexure-7) promoting the petitioner as an Upper Division Clerk with effect from 1.1.2006.

7. It is not in dispute that the Promotion Committee of the University recommended promotion to the petitioner as Accounts Assistant in its meeting held on 12.12.1996. So far as the contention of the respondents that the petitioner could not have been appointed in view of the point no.10 of the letter of the State Government dated 21.8.1995 is concerned, on bare perusal of the said letter brought on record as annexure to the counter affidavit would show that point no.10 thereof provides that any person who has been appointed on compassionate ground, will not be given second time benefit of promotion on compassionate ground. So far as the case of the petitioner is concerned, it is not that the petitioner is being given second time benefit of promotion on compassionate grounds. The case of the petitioner was considered by the Promotion Committee and from the minutes of its meeting held on 12.12.1996 which is on record as Annexure-3/A to the writ application, the petitioner was duly recommended for promotion to the post of Accounts Assistant (from the date of the order ie 12.12.1996). There being no



dispute with respect to the said recommendation, in the opinion of the Court, there is no applicability of any of the provisions of the letter dated 21.8.1995 being relied upon by learned counsel appearing for the respondent University.

8. In view of the facts and circumstances of the case, the Court finds merit in the submissions made by learned counsel for the petitioner. The petitioner is held entitled for promotion to the post of Accounts Assistant with effect from the date of recommendation of the Promotion Committee ie from 12.12.1996 and not 1.1.2006 as has been held in memo no. 12742-76/12 dated 21.9.2012 issued under the signature of the Registrar, Lalit Narayan Mithila University. The respondent University will consequently modify the date of promotion of the petitioner as Upper Division Clerk to be with effect from 12.12.1996 with all consequential monetary benefits which shall be paid to the petitioner within a period of four months from the date of receipt/production of a copy of this order.

9. The writ application stands allowed.

(Partha Sarthy, J)

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CAV DATE	N/A
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