

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13426 of 2014

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Krishna Kumar Choudhary son of Shri Bagish Chandra Choudhary, resident of cooperative Colony, Laxmisagar, P.S.- Sadar, District- Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna
2. L.N. Mithila University, Darbhanga through its Registrar
3. Vice Chancellor, L.N. Mithila University, Darbhanga
4. Registrar, L.N. Mithila University, Darbhanga
5. Principal, C.M. Science College, Darbhanga
6. Shri Radheshyam Thakur, Storekeeper, C.M. Science College, Darbhanga

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhinav Srivastava, Advocate
For the Respondent/s	:	Mr. Manoj Kumar Sinha, A.C. to SC 19
For the L.N.M.U.	:	Smt. Binita Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 11-01-2024

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

2. The petitioner has filed the instant application for a direction to the respondent authorities under the L.N. Mithila University (hereinafter referred to as ‘the University’) for granting promotion to the petitioner against the post of Head assistant on a regular basis at C.M. Science College, Darbhanga and for other consequential reliefs.

3. Bereft of unnecessary details, facts relevant for the instant application are that a counter affidavit was filed on



behalf of the L.N. Mithila University stating there in that as per the statute approved by the Chancellor, University of Bihar vide Memo no. B.SU-41/2013-429 dated 4.3.2014 and which was enforced by the universities of Bihar with effect from 4.3.2014, appointment and promotion of the employees of the university office, PG Department and constituent colleges are done as per the said statute. Accordingly, a written departmental examination for promotion to the post of Head Clerk in CM Science College, Darbhanga was conducted and result thereof published. Viva-voce has also been conducted and concluded and the process of promotion is complete.

4. Learned counsel for the University submits that in light of the aforesaid facts, since the promotion are being done on the basis of written and oral examination no promotion can be done ignoring the said process. As the petitioner did not appear in the said departmental examination, his case could not be considered.

5. In response, learned counsel for the petitioner referring to the contents of the rejoinder to the counter affidavit filed on behalf of the petitioner, submits that though the petitioner had applied for participating in the promotion examination, on account of severe health issues, he could not appear and thus



filed a representation dated 30.9.2015 before the Vice Chancellor requesting that he be allowed to participate in another examination to be conducted for the same. A copy of the said representation has been brought on record as Annexure-26.

6. Learned counsel for the University refers to the supplementary counter affidavit and submits that there being no provision in the statute for holding special examination, the request of the petitioner was rejected. At the same time, it is submitted that the petitioner may appear in the next examination and if he qualifies, he will be granted promotion subject to availability of seats.

7. Having heard learned counsel for the parties and having perused the material on record, this Court agrees with the submission made by the learned counsel for the University which is to the effect that there being no provision for holding a special examination under the statute, the said request of the petitioner could not be granted. At the same time, it goes without saying that as and when the next examination is held the petitioner may appear in the same and on his so qualifying he would be granted promotion subject to availability of vacant seats.

8. With the above observation, the writ application stands



disposed of.

(Partha Sarthy, J)

Bibhash/-

AFR/NAFR	
CAV DATE	
Uploading Date	16.1.2024
Transmission Date	

