

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3488 of 2021

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RAMESH PRASAD KANTH son of late Janardan Prasad Kanth resident of
C-59, A.G. Colony, P.s.- Shastri Nagar, District- Patna-800025

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Bihar, Patna
2. The Chancellor of Universitites Raj Bhawan, Patna
3. Principal Secretary to the Hon'ble Governor of Bihar Raj Bhawan, Patna
4. Maulana Mazharul Haque Arabic and Persian University Patna, through its
Registrar
5. Vice Chancellor Maulana Mazharul Haque Arabic and Persian University,
Patna
6. Registrar Maulana Mazharul Haque Arabic and Persian University, Patna
7. Shri Rakesh Kumar Mehta presently posted and working in the capacity of
Financial Adviser, Maulana Mazharul Haque Arabic and Persian University,
Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhinav Srivastava, Adv
For the State	:	Mr. Priyadarshi Matri Sharan, AC to AAG 15
For the Hon. Chancellor	:	Mr. Janardan Pd. Singh, Sr. Adv
		Mr. Rajiv Ranjan Kumar Pandey, Adv
For the University	:	Mr. Rashid Izhar, Adv

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 05-09-2024

Heard learned counsels for the parties.

2. Petitioner has approached this Court for the following
reliefs:-

*(i) For quashing the letter dated 19.08.2020,
bearing memo no.BSU-(FA) 37/2018-1545/GS (1) issued
from the Governor's Secretariat, Bihar, Patna, pursuant
to the order passed by the Chancellor of Universities of
Bihar, by which the petitioner was relieved from the post*



of Financial Adviser of Maulana Mazharul Haque Arabic & Persian University, Patna (hereinafter referred to as the 'University').

(ii) For commanding the concerned respondent authorities under the Governor's Secretariat, Patna, Bihar, as well as the University to take steps towards allowing the petitioner to resume his duties in the capacity of Financial Adviser of the University on the basis of the selection and appointment against the post of Financial Adviser of the University by a notification dated 24.03.2018 issued from the Governor's Secretariat, Patna, Bihar for a term of three years.

(iii) For commanding the concerned respondent authorities to take steps towards making payment of entire arrears of salary along with current salary in favour of the petitioner that he has been deprived of, on account of illegal order of relieving as communicated by the impugned letter dated 19.08.2020 issued from the Governor's Secretariat, Patna , Bihar even before the term of the petitioner against the post of Financial Adviser of the University had gotten over.

(iv) For any other relief that the petitioner may be found to be entitled to in the facts and circumstances of the present case.

3. Learned counsel for the petitioner submits that the case at length is that vide an advertisement dated 22.12.2017 issued from the Governor's Secretariat, Patna, Bihar, applications were invited from eligible candidates for consideration of their cases



for appointment against the posts of Financial Advisers in different universities within the State of Bihar in terms of the provisions contained under Section 12A of the Bihar State Universities Act, 1976 (hereinafter referred to as 'the Act') and Section 14A of the Patna University Act, 1976 as amended up-to date. (Annexure-1 of the writ application).

4. Petitioner, being eligible in all respect, amongst other persons, had also submitted his application in the prescribed manner for consideration of his case for appointment against the post of Financial Adviser in the services of the Universities within the State of Bihar. Thereafter, petitioner participated in the interview conducted by the concerned authorities pursuant to the order passed by the Chancellor of Universities of Bihar and on the basis of performance of the petitioner in the selection process, petitioner was appointed against the post of Financial Adviser of the University, by a notification dated 24.03.2018 bearing memo no.BSU-59/2014-903/GS (1) issued from the Governor's Secretariat as per the provisions contained under Section 12A of the Act, 1976 as amended up to date.

5. He further submits that the provisions contained under Section 12A (2) of the Act, as amended up to date prescribes that the terms and conditions of service of Financial Adviser



shall be determined by the Chancellor in consultation with the State Government and the person appointed in the capacity of Financial Adviser would ordinarily hold the post for three years.

6. Pursuant to the appointment of the petitioner by the University by aforesaid notification dated 24.03.2018, petitioner submitted his joining in the said capacity and assumed charge of the Office of Financial Adviser of the University on 02.04.2018 and the same was duly accepted by the concerned authorities and thereafter, vide office order dated 02.04.2018 issued by the University notified that the petitioner has submitted his joining in the capacity of Financial Adviser of the University for three years on the usual terms and conditions of re-employment. (Annexure-3 of the writ application).

7. He further contended that the terms and conditions for Financial Advisers of the Universities of Bihar as communicated vide letter dated 19.10.2010, issued from the Governor's Secretariat, Patna, Bihar, which had been framed in furtherance of the provisions contained under Section 12 A (2) of the Act. (Annexure-4 of the writ application).

8. Further, from bare perusal of clause 2 of the duties and functions of Financial Adviser as contained in the terms and conditions of Financial Adviser of Universities of Bihar would



establish beyond all reasonable doubts that a person appointed in the capacity of Financial Adviser of a University shall hold office for a period of three years with effect from the date on which he assumes the charge and upon expiry of the said period, he may be re-appointed for another term not exceeding three years.

9. He further submits that impugned letter dated 19.08.2020 bearing memo no.BSU-(FA) 37/2018-1545/GS (1) was issued from the Governor's Secretariat, Patna, Bihar, by which while stating that in continuation of the letter dated 24.03.2018 (which is the notification by which the petitioner was appointed against the post of Financial Adviser in the services of the University), the Chancellor after due consideration had been pleased to order to relieve the petitioner from the post of Financial Adviser of the University with immediate effect; and reference of a letter dated 09.07.2020 had also been made in the said letter. (Annexure-5 of the writ application).

10. Learned counsel for the petitioner further contended that aforesaid impugned letter dated 19.08.2020 issued by the concerned respondent is highly arbitrary, unreasonable and in violation of the provisions contained under Section 12 A of the Act as well as the terms and conditions of Financial Adviser of



Universities of Bihar as communicated to the petitioner by aforesaid letter dated 19.10.2010.

11. He further submits that the impugned letter dated 19.08.2020 is untenable in the eyes of law as neither the petitioner had been afforded any opportunity of being heard prior to issuance of the same nor any reasons have been assigned on account of which, the Chancellor of Universities had ordered for relieving the petitioner from the post of Financial Adviser of the University and as such, the said order is clearly liable to be quashed by this Court on account of it being in violation of the principles of natural justice as well as the provisions contained under the Act, 1976 as amended up to date.

12. He further submits that petitioner submitted a representation dated 31.08.2020, before the concerned authorities under the Governor's Secretariat, Patna, Bihar, but no response in respect thereof was ever received by the petitioner.

13. A notification dated 03.12.2020 bearing memo no. BSU (FA)-37/2018-2524/GS (1) was issued from the Governor's Secretariat, Patna, Bihar by which the respondent no.7, who was working in the capacity of Financial Adviser of Jai Prakash University, Chapra was transferred against the post of Financial



Adviser of the University with immediate effect till 23.03.2021.

(Annexure-8 of the writ application).

14. He lastly submits that on account of premature relieving of the petitioner's post of the Financial Adviser of the University, petitioner has been subjected to extreme detriments in terms of payment of salary that he was otherwise entitled to in accordance with law and thus, petitioner is also entitled for being made payment of salary that has been wrongly denied to him on account of issuance of impugned letter dated 19.08.2020 from the Governor's Secretariat, Patna, Bihar.

15. A counter affidavit has been filed on behalf of the respondent no.4 to 7, in which the respondent has stated that petitioner was appointed as Financial Adviser in the University by the Governor's Secretariat, Patna, Bihar vide notification Memo No. BSU-59/2014-903/GS(1) dated 24.03.2018 and he had joined the University on 02.04.2018, afternoon. His joining was accepted vide the University memo no. F-1095/18 RE-133/18 dated 20.04.2018. (Annexure R-1 of the counter affidavit filed on behalf of the respondent nos.4 to 7).

16. It is further submitted that Governor's Secretariat, Bihar, Raj Bhawan, Patna, vide memo no.BSU (FA)37/2018-1545/GS (1) dated 19.08.2020 had issued relieving order of the petitioner



from the post of Financial Adviser of the University with immediate effect. The University has not issued any relieving order and petitioner stopped coming to the University on his own. (Annexure-R-2 of the counter affidavit filed on behalf of respondent nos.4 to 7).

17. A counter affidavit is also filed on behalf of the Chancellor of the Universities/ respondent no.2. It is submitted by learned Senior Counsel Mr. Janardan Pd. Singh, appearing on behalf of the Chancellor that one letter dated 09.07.2020 was received from the Registrar of the University in which it was reported to the Governor's Secretariat that the age of the present Financial Adviser of the University was approximately 72 years as per available records held with the University. The Financial Adviser is suffering from old age disease because of which he has not been able to attend the office regularly as per laid down timings. Because of old age, the University has been providing a University vehicle or hired vehicle at University expense against para (xiii) of terms and conditions of Financial Advisers issued vide Governor's Secretariat letter no.BSU-3/2010-2946/GS(1) dated 19.10.2010. Further, the COVID-19 pandemic has complicated the issue, wherein older persons of age more than 65 years have been advised to stay at home as per the Ministry



of Home Affairs guidelines. The present situation has affected the functioning of the University, especially in financial matters. (Annexure- R/A of the counter affidavit filed on behalf of the Chancellor).

18. He further submitted that upon consideration of the letter dated 09.07.2020 of the Registrar of the University, petitioner was relieved from the post of Financial Adviser of the University with immediate effect by the order of the Chancellor contained in letter no. BSU(FA)-37/2018-1545/FS(1) dated 19.08.2020.

19. Heard both the parties.

20. The factual aspect discussed hereinabove by the parties portrays a very disturbing picture and exposes the grim side of the functioning of the Office of Chancellor and Registrar of the University. It is evident without any doubt that the Office of Chancellor has scant regard for the rule of law and the legal principles laid down by the Hon'ble Supreme Court and High Court as mechanical orders are passed in abject disregard for the same.

21. It is an uncontested fact that prior to relieving the petitioner from his service, no notice or show-cause was issued to him, which constitutes a blatant violation of the principles of



natural justice as well as the provisions contained under the Act 1976, as amended to date. The concerned respondents failed to conduct a proper inquiry into the petitioner's situation, and despite this, the Registrar of the University issued a letter dated 09.07.2020 to the Chancellor. Based on this letter, the Chancellor relieved the petitioner by the order dated 19.08.2020 contained in letter no.BSU(FA)- 37/2018-1545/FS (1) solely on the grounds of illness, age-related ailments and old age, without conducting any medical examination to substantiate that the petitioner was unfit to continue serving as Financial Adviser in the University.

22. This aspect assumes significance given the candid admission by the learned Senior Advocate representing the Chancellor's Office regarding the non-observance of legal principles while passing orders to remove University officials. While noting the argument presented by the Chancellor's advocate, it is important to acknowledge and admit that the principles of natural justice were not adhered to, a point that the learned advocate did not even attempt to defend.

23. It is high time that the University's Office of Chancellor adheres to legal principles while passing orders on the administrative side involving service issues of university



officials.

24. Considering the facts and circumstances of the case, there is a crystal clear violation of principles of natural justice and the provisions contained under the Act 1976. Therefore, I am inclined to grant the relief to the petitioner as he prayed.

25. The letter dated 19.08.2020, bearing letter no.BSU(FA)-37/2018-1545/FS(1) issued under the signature of the Additional Secretary, pursuant to the order passed by the Chancellor of the University, is hereby quashed.

26. The concerned authority is hereby directed to ensure the payment of all consequential benefits to the petitioner, including those owed for the remainder of his contractual term from which he was prematurely relieved, within three months from the date of receipt or presentation of a copy of this order.

27. With the aforementioned observation and direction, this writ application stands allowed.

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.09.2024
Transmission Date	NA

