

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9047 of 2016

=====

Ugrasen Jha son of Late Bashishtha Narayan Jha, Resident of Village Post-
Madhepur, Uttarbari Tola, P.S.- Madhepur, District- Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The L.N. Mithila University, Kameshwarnagar, Darbhanga through the Vice Chancellor.
3. The Vice Chancellor, L.N. Mithila University, Kameshwarnagar, Darbhanga.
4. The Registrar, L.N. Mithila University, Kameshwarnagar, Darbhanga.
5. The Principal, H.P.S. College, Madhepur, District- Madhubani.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Ms. Anju Jha
For the State	:	Mr. Prabhat Ranjan Singh, AC to AAG 15
For the University	:	Mr. Bindhyachal Rai

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER

C.A.V.

Date : 30-08-2024

The petitioner has filed the present writ application for commanding the respondents to absorb the services of the petitioner on Class III post of Counter Clerk, along with all consequential benefits from the date of his appointment.

2. The Harshpati Singh College, Madhepur, Madhubani (in short, 'College'), was made constituent in the year 1980. Thereafter, the Co-ordinator of the College, vide its letter no. 2889-3952 C.D.C., dated 11.02.1981, sent the details of additional staffs of different categories of non-teaching staffs as required in



the College to the State Government for sanction on the recommendation of the Staffing Pattern Committee and the decision of the Education Department, in letter no. 938, dated 04.08.1980.

3. According to the petitioner, one post of Counter Clerk was also included in the aforesaid letter and subsequently the petitioner was appointed on the post of Counter Clerk on 10.11.1982. The petitioner, along with others, was appointed in anticipation of creation of posts by the State Government in the College.

4. Learned Counsel for the petitioner submits that the Principal of the College sent letter no. 295, dated 16.06.1984 to the Registrar of the Lalit Narayan Mithila University (in short, 'University'), giving details of Class-III and Class-IV employees appointed on temporary basis in the College, wherein the name of the petitioner finds place at serial no. 2 of the list of Class-III employees, and other employees working in Class-III posts, namely, Amarnath Mishra, Binod Kumar Jha and Birendra Kumar, were placed at serial nos. 4, 5 and 6 and Mahendra Prasad, with a request to grant salary to the employees and for regularization of their services. The services of other Class-III employees, namely, Binod Kumar Jha, Birendra Kumar, Mahendra Prasad and



Amarnath Mishra, have been regularized by the University by notification, dated 18.02.2016. The principal of the College, in the year 2001, published a list of non-teaching employees working in the College against Class-III and Class-IV posts showing the posts deemed to be sanctioned as per the staffing pattern.

5. The petitioner has continuously working in the College from the date of his appointment on 10.11.1982 and has worked as temporary employee for more than 33 years, but the claim of the petitioner for regularization is not being considered, which is arbitrary, irrational and discriminatory in light of the fact that similarly situated persons, who were appointed in the similar manner as that of the petitioner, have been absorbed on Class-III posts.

6. Learned Counsel further submits that one Binod Kumar Jha was appointed exactly in similar manner as that of the petitioner after appointment of the petitioner on 14.02.1983 and he was always placed below the petitioner in the list of the staffs of the College, and his services was regularized pursuant o the order, dated 26.08.2004, passed in CWJC No. 9215 of 1999.

7. Four non-teaching employees of the College, including Binod Kumar Jha and Amarnath Mishra, who were appointment in the similar manner as that of the petitioner on



Class-III post, moved before this Court, in CWJC No. 9215 of 1999, which was disposed by order, dated 26.08.2004, in terms of the order of the Division Bench of this Court, in the case of **Awadesh Prasad Yadav and Others v. The State of Bihar and Others**, reported in **2004 (2) PLJR 689**.

8. One another similarly situated Class-III employee, namely, Subhash Chandra Mishra, who was appointed after the appointment of the petitioner on 24.07.1984 and has always been placed below the petitioner in the list of Class-III employees, filed a writ application before this Court, bearing CWJC No. 20099 of 2016, i.e. after the petitioner filed the present writ application, and this Court, vide order, dated 14.12.2017, allowed the writ application in similar terms to that of order, dated 26.08.2004, passed in CWJC No. 9215 of 1999 and the respondents were directed to pass consequential order and to make payments to the petitioner. The services of Subhash Chandra Mishra has also been absorbed vide notification, dated 26.09.2018.

9. On the other hand, learned Counsel for the State argued that the petitioner was appointed against unsanctioned post by the Principal of the College in contravention of Section 10 (6) and Section 35 of the Bihar State Universities Act, 1976. He further submits that the appointment process was conducted



without any advertisement or publication of merit list, which is violative of Articles 14 and 16 of the Constitution of India. The petitioner cannot claim parity with the similarly situated persons as the services of Awadesh Prasad Yadav and others were regularized as they were Lab Incharge against the posts which were recommended by the University to the State Government for sanction and the same was pending consideration before the State Government. Insofar as the case of the petitioner is concerned, he was appointed on the post of Counter Clerk, which was not recommended by the University to the State Government.

10. I have heard learned Counsel for the parties concerned and have gone through the materials available on record, including the orders passed in favour of similarly situated employees.

11. From Annexure 3, which is letter of the Principal of the College sent to the Vice Chancellor of the university, dated 16.06.1984, giving the details of Class-III and Class-IV employees appointed on temporary basis in the College, it appears that the name of the petitioner is at serial no. 2 and the name of other similarly situated employees, who have already been regularized have been placed below the petitioner. Even some of the employees, who were appointed after the petitioner, have been



regularized by the respondents pursuant to the orders of this Court, in CWJC Nos. 9215 of 1999 and 20099 of 2016.

12. In CWJC No. 9215 of 1999, this Court has allowed the writ application on the basis of decision of the Division Bench of this Court, in the case of **Awadesh Prasad Yadav** (supra).

13. The argument of learned Counsel for the respondents is that the petitioner cannot claim parity with the similarly situated persons as they were regularized against the posts, which were recommended by the University to the State Government for sanction and the same was pending consideration before the State Government.

14. Upon reading Annexure-3, it appears tht the Principal of the College specifically mentioned that the University, vide letter no. 2889-36521 C.D.S., dated 11.02.1981 and 16.02.1981, had recommended for sanction of 31 Class-III and Class-IV posts as per the staffing pattern of the State Government, but the request of the University remained pending before the State Government. The list of employees attached with the letter contains the name of the petitioner as well as the names of similarly situated persons.

15. It is undisputed that the services of four employees, appointed along with the petitioner in similar manner, have been



regularized by the respondents on the basis of the decisions of this Court, passed in CWJC Nos. 9215 of 1999 and 20099 of 2016.

16. Annexure-4 is the list of Class-III and Class-IV employees prepared by the College under deemed to be sanctioned as per the staffing pattern and the said list contains the name of the petitioner and other similarly situated employees, who have been regularized pursuant to the orders passed by this Court.

17. Considering the aforesaid facts and circumstances and the fact that the petitioner spent his entire life working in the College and has also attained the age of superannuation, he cannot be denied similar treatment as has been given to the similarly situated Class-III employees pursuant to the orders passed by this Court. The similar benefit must be extended to the petitioner and he cannot be singled out by the respondents.

18. In any case, the petitioner has made out a case of similar treatment as has been given to the similarly situated Class-III employee appointed in the similar manner way back in the year 1982, 1983 and 1984 etc. One of the Similarly situated employee, namely, Subhash Chandra Mishra filed a writ application (CWJC No. 20099 of 2016) after the writ application filed by the petitioner and his services has been regularized pursuant to the order passed by this Court.



19. Having considered the aforesaid discussion, this writ application is allowed in similar terms to that of orders, passed in CWJC No.9215 of 1998 and CWJC No. 20099 of 2016. The respondents are directed to pass consequential order and to pay monetary benefits to the petitioner from the date of his initial joining expeditiously within a period of three months from the date of receipt/production of a copy of this order.

20. There shall be no order as to costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	01-08-2024
Uploading Date	30-08-2024
Transmission Date	N/A

