

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11238 of 2016

=====

Bijay Singh S/o Sri Baldeo Prasad, R/o village- Bishalbigha, P.S- Ongari,
P.O- Bishalbigha, District Nalanda presently working on the post of Generator
Operator in B.N. College, Patna, P.O- Bankipur, District and Town Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Higher Education, Govt. of Bihar, Patna.
3. The Vice-Chancellor, Patna University, Patna.
4. The Registrar, Patna University, Patna.
5. The Principal B.N. College, Patna

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Sujeet Kumar Gupta
For the Respondent/s	:	Mr. Gyan Prakash Ojha, GA-7
		Mr. Abhinav Ashok, AC to GA-7
For the University	:	Mr. Digvijay Singh
		Mr. B. J. Jha

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 03-05-2024 1. The petitioner has filed the present writ application for a direction to the respondent-authorities to regularize the service of the petitioner on Class-IV post and to pay all the consequential benefits.

2. Learned counsel for the petitioner submits that the petitioner was appointed as daily-wage employee on the sanctioned post of Generator Operator by the then Principal, in Bihar National College, Patna, on 15.09.1999. He worked to the satisfaction of all concerned and got daily wages by the University.

3. Since the petitioner is working for the last



many years, a letter, dated 31.01.2012, was sent by the Principal of the College to the Planning Officer, Patna University, with recommendation for regularization of temporary/daily wages employees, including the petitioner.

4. Learned counsel submits that in the year 2005 the petitioner applied pursuant to the advertisement published for regular appointment, but the process of appointment was not completed by the University.

5. Learned counsel for the Patna University submits that the petitioner joined on Class-IV post as Generator Operator in the Bihar National College, Patna, on 19.09.1999.

6. Earlier, the cut-off date for regularization/absorption of the daily-wage employees, working in the University/College, was fixed on 10.05.1986 by the Department of Higher Education/Human Resources Development Sankalp vide circular, dated 10.05.1991. The State Government, at the same time, directed the University to terminate the services of the daily-wage employees appointed thereafter.

7. The cut-off date for regularization/absorption was changed from 01.08.1985 to 11.12.1990 by the Department of Personnel and Administrative Reforms vide Memo No. 3/C-



15/2004-489, dated 10.05.2005.

8. He further submits that service of the petitioner was terminated on 24.09.2016 and since then he is not working in the College/University.

9. Learned counsel for the State, referring to the counter affidavit, submits that the petitioner was engaged purely on daily wages as Generator Operator by the then Principal of the Bihar National College, Patna, without following the due process of appointment on un-sanctioned post.

10. He further submits that as per the Section 10 (6) of the Bihar State Universities Act, 1976, the Vice-Chancellor is the competent authority for appointment of ministerial staff and other employees of the University on sanctioned post, but in the present case, the Principal of the College has appointed the petitioner and not the Vice-Chancellor of the University.

11. I have heard learned counsel for the parties concerned.

12. The petitioner has not brought on record any material to show that he was appointed on the sanctioned post by the competent authority after following the mandate of Article 14 and 16.



13. It is now well settled that regularization is not a mode of appointment unless the person has been appointed after following the due process by the competent authority, and on the sanctioned post and there is specific policy for regularization.

14. There was scheme of the State Government for regularization/absorption of the daily-wage employees with a cut-off date of 11.12.1990, however, the petitioner has been appointed after 11.12.1990 i.e. in the year 1999, as such, he is not eligible for being considered for regularization/absorption as per the circular, dated 10.05.2005. Any appointment/promotion made contrary to the provisions of the Act or Statues, Rules or Regulations made there under shall be invalid.

15. The petitioner has been disengaged/terminated in the year 2016, as such, in the backdrop of the discussion held hereinabove, no direction can be issued by this Court for regularization/absorption of the service of the petitioner.

16. In the result, this writ application is dismissed.

(Anil Kumar Sinha, J)

ashwani/-

U			
---	--	--	--

