

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12887 of 2016

Dr. Pankaj Kumar Son of Dr. Suresh Nath Singh resident of Vill Post-Dhanauti, Via-Daronda, P.S.- Daronda, District-Siwan Bihar

... .. Petitioner/s

Versus

1. The Bihar Agriculture University and Ors
2. The Vice- Chancellor, Dihar Agricultural University, having Office at Sabaur, District- Bhagalpur,
3. The Registrar, Bihar Agricultural University, having Office at Sabaur, District- Bhagalpur, Bihar
4. The Principal, Bihar Veterinary College, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Akshansh Shanker
	:	Mr. Anand Kumar Ojha
For the Respondent/s	:	Mr. Chandra Mohan Singh
For the BAU	:	Mr. Sriram Krishna
	:	Mr. Shailendra Kumar Singh
	:	Mr. Amarjeet
	:	Mr. Prabhat Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

7 05-09-2024 1. Heard, Mr. Akshansh Shanker, learned counsel for the petitioner.

2. The petitioner, at relevant point of time, was working as Assistant Professor, A.H. Extension, Bihar Veterinary College, Patna. Under the Faculty Development Program (hereinafter referred to as FDP) of the U.G.C., the University published the scheme for allowing all faculty members with prerequisite qualification to seek their admission and pursue Ph.D. Program as in-service candidates.

3. Learned counsel for the petitioner submits that,



under the scheme of the in-service candidates admitted to Ph.D. Program, full pay study leave for a maximum period of three years was admissible. The selection of candidate was to be done on seniority-cum-merit basis. The petitioner submitted his application for admission in Ph.D. Program at Birsa Agriculture University, Ranchi, dated 17.09.2013, and the concerned University confirmed that the petitioner has qualified for admission in the Ph.D. Program. The Bihar Agriculture University came out with an office order, dated 06.07.2013 stating that the Hon'ble Vice-Chancellor has pleased to approve the name of the faculty members selected by newly constituted committee for consideration under the Faculty Development Program in which the name of the petitioner in the faculty of veterinary has been placed at Serial No. 3.

4. Subsequently, by office order, dated 13.07.2013, the candidature of the petitioner for FDP has been cancelled and the petitioner was dropped from the list of selected candidates for Ph.D. Program.

5. Since, the petitioner was crossing the requisite age and the deadline for deputation under FDP was approaching and further, he had liabilities of his grown up children, he was compelled to decide for a study leave without pay for pursuing



the Ph.D. Program. Accordingly, he filed application, dated 20.09.2013, seeking permission to go for higher study without pay, as per Clause 10 of the relevant circular/guidelines for the candidates applying under the FDP. On the request of the petitioner, Registrar of the University communicated the approval of the Vice-Chancellor for study leave of three years without pay with effect from 20.09.2013.

6. Learned counsel further submits that in his request letter, dated 20.09.2013, he had clearly indicated that in case petitioner is selected for higher study under F.D.P. of the University during the next academic year, he may be granted the full pay study leave for even the remaining period of the Ph.D. Program. The request of the petitioner to proceed on study leave without pay was only with a view to lessen the hardship for the remaining period of the study leave. The petitioner was relieved for Ph.D. Program on 18.03.2013 and completed the same and reported his joining on 19.03.2016. After re-joining, the petitioner filed a representation, dated 14.07.2016, requesting the Vice-Chancellor to consider the claim of the petitioner sympathetically for grant of full pay of the period of study leave as the petitioner was given unfair treatment and his selection for the higher studies, as per F.D.P. program was abruptly cancelled



without giving any notice to him.

7. On the other hand, learned counsel, Shri Ram Krishna with Mr. Prabhat Kumar Singh, Advocate, submits that as per the roster for the year 2013, there was only one seat for Veterinary and Animal Husbandry Extension Program and that seat was permissible for only E.B.C. candidate. Since, the petitioner came under unreserved category and not under E.B.C. category, accordingly, the selection of the petitioner for F.D.P. program with full salary was recalled and an office order in this regard was issued on 13.07.2013.

8. The petitioner did not challenge the recall of his candidature by the University and invoked his right under Clause 10 of the guidelines for the candidates applying under F.D.P. and proposed that he be permitted to go on for higher studies program for Ph.D. Degree without pay. Clause 10 of the guidelines of F.D.P. provides that faculty members applying for admission in Ph.D. Degree program without pay shall be permitted study leave where they can apply for availing earned leave available in his/her account as per University rule for pursuing Ph.D. The petitioner, in his request letter to the University seeking permission to go on higher studies without pay, has specifically mentioned that he would go on higher



study leave without pay. After completion of his higher studies in 2016, the petitioner turned around and claimed that he should be paid full salary for three years as he had proceeded for higher studies under compelling circumstances.

9. I have heard learned counsel for the parties and have gone through the materials on record. The facts are not very much disputed in the present case. It is true that the petitioner was short listed by the University under the F.D.P. program with full pay by office order, dated 06.07.2013 but in supersession of the aforesaid order, dated 06.07.2013, another office order was issued by the University on 13.07.2013 by which the selection of the petitioner for F.D.P. program with full salary was recalled/rejected. The petitioner did not challenge the letter by which his selection for F.D.P. program with full salary was recalled by the University in 2013 and on the contrary, he invoked Clause 10 of the guidelines for F.D.P. and sought permission from the University to proceed on study leave without pay. The University allowed the request of the petitioner to pursue higher studies without pay. It is after completion of the Ph.D. Program in 2016 i.e., after three years and when the petitioner re-joined the University, he filed a representation to the University to consider his claim for full pay for the period of



higher studies pursued by him in Birsa Agriculture University,
Kanke, Ranchi.

10. In my opinion, it was a conscious decision of the petitioner to go on study leave without pay and the petitioner with open eyes availed the provision of Clause 10 of the guidelines for F.D.P. and requested to go on study leave. Now the petitioner cannot turn around from his stand and cannot demand the full salary for the period of three years during which the petitioner was pursuing his higher studies.

11. In the result, the present writ application, having no merit, stands dismissed.

(Anil Kumar Sinha, J)

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