

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3933 of 2018

In
Letters Patent Appeal No.295 of 2015

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1. Vijay Shankar Rai and Ors son of Late Narsingh Rai, resident of Village -Harpur, P.O. Pusa and P.S. Pusa, District - Samastipur presently posted as Assistant in RAU Headquarter Pusa, District- Samastipur.
 2. Surendra Choudhary son of Late Chote Choudhary, resident of Mohalla- Nai Sarai, P.O. Biharsharif, P.S. Biharsharif, District- Nalanda, presently posted as Section Officer, in RAU Headquarter Pusa, District- Samastipur.
 3. Abhimanu Kumar, son of Late Maheshawari Prasad, resident of Mohalla- Lohanipur, P.S.Kadamkuan, District- Patana presently posted as Assistant in RAU Headquarter Pusa, District- Samastipur.
 4. Chandra Kant Sharma, son of Late Upendra Sharma, village Yamunabarahi, P.O. Kamaldha, District- Sitamarhi presently posted as UDC in RAU Headquarter Pusa, District- Samastipur.
 5. Deo Prasad Roy, son of Late Ram Bichar Roy, village- Brahmpur, P.O. Parsa, District- Saran Chapra presently posted as UDC in RAU Headquarter Pusa, District- Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Shri Sudhir Kumar, son of not known, the Agriculture Production Commissioner, Department of Agriculture, Government of Bihar, Patna.
3. Shri Prabhu Ram, son of not known, the Director Administration cum Additional Secretary, Department of Agriculture, Government of Bihar, Patna.
4. Smt. Sujata Chaturvedi, wife of not known, the Principal Secretary, Department of Finance, Government of Bihar, Patna.
5. Dr. Ravi Nandan, son of not known, the Registrar, Rajendra Agriculture University, office at PUSA, Samastipur, Bihar.
6. Shri B.K. Ambastha, son of not known, the Vice Chancellor, Rajendra Agriculture University, office at Pusa, Samastipur, Bihar.
7. Shri Umesh Kumar Verma, son of not known, the Director, Rajendra Agricultural University, office at PUSA, Samastipur, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashish Giri, Advocate
For the Opposite Party/s	:	Mr. Sarvesh Kumar Singh, AAG 13
		Mr. Ravi Kumar, AC to AAG 13
For University	:	Mr. Chandra Mohan Singh, Advocate



CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 05-03-2024

The present MJC / contempt application is filed for non-compliance of the order dated 14.05.2018 passed in LPA No. 295 of 2015. It is necessary to reproduce last portion of the order dated 14.05.2018 and it reads as under:

“Summarizing our opinion in the light of the discussion aforementioned we are persuaded to hold that the decision of the respondent State in its Agriculture Department as well as Finance Department to deprive the non-teaching employees of the respondent University to the benefit from ACP Scheme 2003 as well directing for recovery, while allowing similar benefits to the employees of the other Universities and its constituent Colleges, is held discriminatory and an arbitrary decision and not backed by reasons. If section 25(ii) of the ‘Act of 1987’ as it stands repealed by section 24(ii) of the ‘Act of 2010’ was an impediment, similar impediment was existing in the case of the non-teaching employees of other University and its constituent Colleges but which has been waived of. Having thus taken a decision of waiver in so far as the non-teaching employees of other



Universities and its constituent Colleges are concerned, the respondent State cannot be permitted to discriminate with the non-teaching employees of the respondent University. This relevant aspect having eluded the attention of the learned Single Judge, we are persuaded by the arguments of Mr. Shahi to disagree with the opinion expressed by him in the judgment and order impugned. In consequence, the judgment and order dated 18.12.2014 passed in C.W.J.C. No. 10103/2014 is set aside. The direction of the Director, Agriculture as contained in his letter dated 23.12.2023, impugned at Annexure 6, together with the office order bearing Memo No. 208 dated 5.5.2015 of the Comptroller, Rajendra Agricultural University, impugned at Annexure I/1 to I.A. No. 4045/2015 is quashed and set aside.

The writ petition is allowed with consequential reliefs. The interlocutory applications are disposed of.

In result, the Letters Patent Appeal is allowed without any order as to costs.”

2. Even though the Co-ordinate Bench allowed the LPA, however, it is ordered with consequential reliefs. What are the consequential reliefs are not indicated and so also the concerned appellants have not requested this Court at the time of disposing



LPA No. 295 of 2015 on 14.05.2018. Thus, there is a vacuum in respect of what are the consequential reliefs to be extended to the petitioners.

3. At this stage, learned counsel for the petitioners submitted that petitioners are entitled to ACP benefit from 09.08.1999 with reference to their status as a non-teaching staff in the concerned University. On the other hand, the State and University version is that there is no policy decision of the State government in respect of extending ACP benefit to such of those non-teaching post holder in the University. One of the University is stated to have extended the benefit of ACP to non-teaching staff. Under such circumstances the petitioners are also claiming with reference to various decisions of this Court and the Hon'ble Supreme Court.

4. The petitioners have not apprised this Court in respect of specific judicial pronouncement to the extent that non-teaching staff of Universities are entitled to ACP benefit with effect from 09.08.1999 and consequential benefits. In the absence of specific direction in the order dated 14.05.2018 passed in LPA No. 295 of 2015 to the extent that appellants are entitled to benefit of ACP with effect from 09.08.1999, one cannot draw inference that respondents have committed contempt of Court.



5. Accordingly, the present MJC / contempt application stands dropped reserving liberty to the petitioners to file fresh writ petition insofar as what is that consequential reliefs to be granted. In this regard, before filing writ petition let them approach the concerned authority while furnishing detailed representation and establishing statutory right to claim ACP and any other specific service benefits with reference to policy or judicial orders. If such representation is not considered within a period of three months from the date of receipt of such representation, in that event petitioners are at liberty to file writ petition.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.03.2024
Transmission Date	NA

