

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.153 of 2021

In

Civil Writ Jurisdiction Case No.1514 of 2018

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1. The Bihar Agricultural University, Sabour, Bhagalpur through its Registrar.
 2. The Vice- Chancellor, Bihar Agricultural University, Sabour, Bhagalpur.
 3. The Director, Administration, Bihar Agricultural University, Sabour, Bhagalpur.
 4. The Principal, Bihar Agricultural College, Sabour, Bhagalpur.
 5. The Chief Soil Surveyor, Bihar Agricultural College, Sabour, Bhagalpur.

... .. Appellants

Versus

1. Tarak Nath Roy, Son of late Sriti Kumar Roy, resident of Mohalla- Somesh Babu Lane, Bangali Tola, P.O. Champa Nagar, P.S. Nath Nagar, District- Bhagalpur.
2. The State of Bihar.
3. The Principal Secretary, Agriculture Department, Government of Bihar, Patna.
4. The Director, Agriculture, Government of Bihar, Patna.

... .. Respondents

Appearance :

For the Appellants	:	Mr. Sriram Krishna, Advocate
For the State	:	Mr. AC to AAG-13
For the Respondents	:	Ms. Isha Ranjan Pandey, Advocate
		Mr. S.S. Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 30-07-2025

The present *intra* court appeal has been filed challenging the order dated 14.10.2019, passed by a learned Single Judge of this Court, in C.W.J.C. No.1514 of 2018,



whereby the learned Single Judge had disposed of the said writ petition, allowing the case of respondent No.1, directing the Appellant-University to pay the officiating allowances to respondent No.1 (for the period which the respondent had discharged a higher responsibility as Store Keeper and Establishment Clerk) and also to consider his case for promotion, if he qualifies the eligibility criteria.

2. As per the facts on record, respondent No.1 was appointed on the post of Group-D (Peon) on compassionate grounds in Rajendra Agriculture University, Pusa vide memo No.1550, dated 26.12.2001. Later, he was transferred to Chief Soil Survey Office, Bihar Agricultural College, Sabour, Bhagalpur on the post of Peon. After his transfer, he worked there as Establishment Clerk and Storekeeper. The promotion of the Grade-IV staff, on the post of Lower Division Clerk of the said university, was to be done through a limited examination vide memo No.309 dated 12.06.2017, as per the new policy of the University.

3. Learned counsel for the appellants submitted that the respondent was never directed by a competent authority to discharge duties of a Class-III post. Learned counsel for the appellants further submitted that the office



orders whereby, the respondent/writ petitioner claims to have performed duties on higher post clearly stipulated that no additional allowances would be payable to the writ petitioner for discharging of such duties. The appellants further submitted that the respondent No.1 had never claimed of such officiating allowances while discharging duties on higher post.

4. Learned counsel for the appellants also admits that the understanding between the respondents and the appellant-University that, no officiating allowance was to be given to respondent No.1 was communicated orally.

5. Learned counsel for the appellants further submitted that the promotion cannot be right of any person, and no Class-IV employee of the University was promoted after the year 2000, and it was decided that promotion was to be done through a limited competitive exam vide memo no. 309 dated 12.06.2017.

6. Learned counsel for the respondent No.1 submitted that the order of the learned Single Judge of this Court is correct and there is no scope of interference in the said order.

7. The learned Single Judge, relied on the



decisions passed by the Hon'ble Apex Court in the case of ***Secretary-cum-Chief Engineer, Chandigarh v Hari Om Sharma & Others*** reported in (1998) 5 SCC 87 and in the case of ***Arindam Chattopadhyay Vs. State of W.B.*** reported in (2013) 4 SCC 152, to decide that the writ petitioner is entitled to officiating allowance for discharging the higher responsibility. However, on point of promotion, the learned Single Judge did not allow the case of the respondent No.1, and held that seniority cannot be the sole criteria for promotion, particularly when there is statutory scheme regulating promotions.

8. Learned counsel for the appellants has already submitted that there was no document to prove that the respondent No.1 was told that he would not be given allowance for discharging the higher responsibility, and it was merely verbal in nature. Such verbal or oral instruction cannot be proved before this Court. However, the learned counsel for the appellants did not submit that the respondent No.1 was not allowed to discharge higher responsibility by giving him charge of higher post. Thus, it is an admitted position that the respondent No.1 discharged higher responsibility while holding the substantive position of Peon.



9. In light of this, we do not find any merit in this appeal. The order of the learned Single Judge requires no interference.

10. Accordingly, the present appeal stands dismissed.

(Sudhir Singh, J.)

(Ramesh Chand Malviya, J.)

Gaurav Kumar/-

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