

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.333 of 2019

In
Civil Writ Jurisdiction Case No.16024 of 2011

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Binayak Choudhary, S/o Late Govind Choudhary, R/o Village- Maurya Nagar Colony Salehpur, P.O.- Mirzan Hat, P.S.- Habibpur, District- Bhagalpur, retired as Peon, Office of Principal, Bhagalpur National College, Bhagalpur.

... .. Petitioner

Versus

1. Prof. Leela Chand Saha Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur.
2. Tilka Manjhi Bhagalpur University, Bhagalpur, through its Registrar Col. Arun Kumar Singh.
3. Col. Arun Kumar Singh, Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur.
4. Dr. Ashok Kumar Thakur, Principal, Bhagalpur National College, Bhagalpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Verma, Adv.
For the Opposite Party/s : Mr. Ashhar Mustafa, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

7 12-02-2025 Heard Mr. Sanjay Kumar Verma, learned counsel for the petitioner and Mr. Ashhar Mustafa, learned counsel for the Tilka Manjhi Bhagalpur University.

2. The instant application is filed for initiation of a contempt proceeding against the opposite parties for their willful disobedience of the order of this Court dated 06.09.2018 passed in C.W.J.C. No. 16024 of 2011, whereby this Court has disposed off the writ petition with following directions:-

“3. Under the aforesaid circumstances, instead of keeping the petition pending, the writ



application is disposed of with the direction to the University to examine the claim of the petitioner and if it is found that any junior to the petitioner was granted the status of Class-III and paid salary of class-III, the university is under obligation to see that the petitioner is paid salary of Class- II treating the petitioner notionally Class-III from the date when the juniors have been granted such benefit and ensure payment of salary of Class-III from the date juniors have been granted such pay scale. University is also required to grant all other consequential benefits in the matter of fixation of pensionary benefit to the petitioner treating him as Class-III employee from the date junior to the petitioner has been granted the status and scale of Class-III.”

3. Learned counsel for the petitioner contended that despite the fact that the contempt petition was filed way back in the year 2019, the respondent-University sat tight over the matter for a pretty long time and finally after 5-6 years, they have come out with a show-cause affidavit as well as supplementary show-cause affidavit with cryptic and concocted statements. The matter was earlier taken up on 18.11.2024, wherein the learned Court has directed to ensure filing of supplementary show-cause duly sworn by the Registrar of the University annexing documents relating to appointment of the



persons whose name has been furnished by the petitioner in his supplementary affidavit and in reply to the show-cause to demonstrate that those persons were not junior to the petitioner as is being contended in the show-cause filed by the University.

4. Mr. Ashhar Mustafa, learned counsel for the University referring to the supplementary show-cause affidavit filed on behalf of O.P. Nos. 1 to 3 has stated that from the communication sent by the College vide letter dated G/282/22 dated 10.11.2022 (Annexure-G), it is explicit that on 29th September, 1980, an advertisement was issued inviting application for appointment of temporary Lecturers in the subjects of Hindi, English, Political Science, History, Economics, Commerce, Psychology, Urdu and Bengali. By the said advertisement, the copy of which is also placed on record, applications for non-teaching posts were also invited. The candidates who were already working may also apply to the undersigned directly. Applicants were requested to turn up for the interview in the office of the College on 08.10.1980. The person with whom the petitioner is seeking parity and claiming them to be junior, as has been disclosed in para-14 of the supplementary show-cause affidavit, had appeared in the interview. However, it is specifically contended that the



petitioner did not even apply against the said post. It is further contended that Kulanand Sah, Vyas Mandal, Shyamakant Jha, Tarun Kumar Chatterjeet, Naresh Mohan Mishra and Nand Kishore Kumar were selected by the Selection Committee and were appointed on Class-III post since 08.10.1980 by the then Governing Body vide Resolution No. 05 dated 08.10.1980. Since the case of the petitioner is not at parity with the afore-noted persons, thus, it is urged by the University that he is not entitled to get the payment of salary of Class-III post by treating him as Class-III employee notionally; due to the petitioner, having been superannuated during the pendency of the writ petition.

5. Learned counsel for the petitioner contended that the statement of the University is based upon no material document(s), inasmuch as the date on which the persons identically situated to the petitioner rather junior to the petitioner were appointed; there was a ban with respect to the appointment of Class-III and IV posts. It is the contention of the petitioner that the University at one hand admitted that the persons named above with whom the petitioner is seeking parity, they are junior to the petitioner but on the other hand they are not allowing the identical relief(s), which was the mandate



of this Court in C.W.J.C. No. 16024 of 2011. Learned counsel for the petitioner also contended that the show-cause affidavit is full of concoction hence not only deserves to be rejected but deponent is liable to be prosecuted under the provisions of Contempt of Courts Act but also for perjury for swearing wrong affidavit before this Court. It is lastly contended that the chart showing working employees of the Evening College, Bhagalpur and resolution dated 08.10.1980 clearly reflect that Kulanand Sah, Vyas Mandal, B.N.P. Mishra, Shyama Kant Jha, Tarun Kumar Chatterjee and Nand Kishore Kumar were promoted to Class-III Grade.

6. This Court has meticulously perused the show-cause affidavit as well as response to the petitioner.

7. From the Annexure-R/4 dated 08.10.1980, there is a clear stipulation that the persons with whom the petitioner is seeking parity, they were selected for appointment as 3rd Grade employees on the basis of interview and written test. This fact has also been corroborated by the statement of the deponent as has been disclosed in the supplementary show-cause, filed pursuant to the order of this Court, that all these persons were appointed pursuant to an advertisement issued on 29th September, 1980, whereby applications were invited for



appointment of temporary lecturers along with for non teaching posts. It is the specific contention of the deponent that the petitioner had never responded to the said advertisement nor he appeared in the interview.

8. Considering the show-cause affidavit as well as supplementary show-cause affidavit, this Court finds that the case of the petitioner is not identical to those with whom he is seeking parity and claiming them to be junior to the petitioner.

9. In view thereof, this Court does not find any reason to continue with the contempt proceeding. Accordingly, the contempt proceeding stands dropped.

10. However, the petitioner shall always be at liberty to file appropriate application(s) if he is of the view that the affidavit is based on incorrect and false fact.

(Harish Kumar, J)

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