

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2965 of 2024

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Kumari Anjana Wife of Sanjay Sinha, Resident of Flat No. 301, Block B2, Jagmano Kuteer, Akashwani Road, Khajpura, Patna – 800014. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
3. The Principal Secretary, Department of Education, Government of Bihar, Patna.
4. The Chancellor of Universities, Bihar, Patna.
5. The Vice Chancellor, Aryabhatta Knowledge University, Mithapur, Patna.
6. The Registrar, Aryabhatta Knowledge University, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Aditya Prakash Sahay, Adv. Ms. Ankita Kumari, Adv. Mr. Sanjay Sinha, Adv. Mr. Fazle Karim, Adv.
For the State	:	Mr. Government Pleader (17)
For the Chancellor	:	Mr. Dr. K.N. Singh, Sr. Adv. Mr. Rajiv Kumar Pandey, Adv.
For the A.K.U.	:	Mr. Nadim Seraj, Adv. Mr. Sanjiv Kumar, Adv. Mr. Bindyachal Rai, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV JUDGMENT

Date : 05-03-2025

Heard learned counsels for the parties.

2. The present writ application has been filed for the following reliefs:

(i) For issuance of an appropriate writ/order or direction, in the nature of a Writ of Certiorari or any other appropriate writ/order or direction for quashing the order dated 26.09.2023 passed by the Respondent No. 4 as well as the consequential order issued vide Memo No. 120 dated 06.01.2024, cancelling the appointment of petitioner as Dy. Registrar, Aryabhatta Knowledge University, Patna;

(ii) For issuance of an appropriate writ/Order or direction, in the nature of a Writ of



Mandamus or any other appropriate Writ/Order or Direction, commanding the Respondents to reinstate the petitioner with all consequential benefits of continuity, seniority, arrears of salary etc, in accordance with law.

3. The short fact of the present case is that the petitioner being the topper in the final merit list of BPSC got appointed as CDPO in Department of Social Welfare, Government of Bihar vide Memo No. 1689 dated 11.10.2000 on the pay scale of Rs.6500-10500 where she joined on 24.10.2000. She gained 13 years of unblemished service experience by 2013, and after completion of 10 years of service, she was granted the benefits of first Assured Career Progression (ACP) in PB-2 Grade Pay of Rs.5400/-(Annexure P/1 of the Writ Petition). Meanwhile, an advertisement dated 19.08.2011 was published by the Aryabhatta Knowledge University, Patna calling for application from eligible candidates for appointment against various Academic, Administrative and Non-Teaching posts of the University, including the post of Deputy Registrar. Following are the minimum qualifications prescribed in the aforesaid advertisement for the post of Deputy Registrar-

Section B

**1 DEPUTY REGISTRAR/ CONTROLLER
OF EXAMINATIONS/PENSION &**



RETIREMENT BENEFIT OFFICER

Minimum Qualifications:

Master Degree with at least 55% of the marks or its equivalent grade of “B” in UGC seven-point scale.

Experience:

9 years of Experience as Assistant Professor in AGP (Academic Grade Pay) of Rs. 6000/- and above with experience in educational administration;

Or

Comparable experience in research establishment and/or other institutions of higher education;

Or

5 years of administrative experience as Assistant Registrar or on an Equivalent Post;

Apart from above, Clause 8 (i) of the General Conditions prescribed in the Advertisement, specifically empowered the University to relax the minimum requirement of Qualification and/or Experience on the recommendations of



the Screening/ Selection Committee.

(Annexure P/2 of the Writ Petition)

4. Learned counsel for the petitioner submits that she has experience of more than 11 years on a Pay Scale and/ or Grade Pay higher than what was admissible to Assistant Registrar or on an Equivalent Post of the University. The petitioner, therefore, fulfilled the Experience qualification as required under the third category prescribed in Clause 1 of Section "B" of the aforesaid Advertisement. Further, the petitioner also possess Master's Degree in First Division i.e., more than 60% of marks and had done her M.Phil. and Ph.D. from Jawaharlal Nehru University, New Delhi. Based on these qualifications her application was duly forwarded by the competent authority of the State Government on 13.12.2012 (Annexure P/4 of the Writ Petition).

5. Thereafter, the matter of appointment against the said post of Deputy Registrar was considered by the duly constituted University Selection Committee and the petitioner was awarded the highest marks by the said Selection Committee and was therefore, placed at the top of the merit list. The recommendation of the said Selection Committee was considered by the Executive Council constituted by the State Government, which approved the Selection of the petitioner for



the post of Deputy Registrar, and accordingly, she was appointed on the sanctioned vacant post of Deputy Registrar on Pay Band 3 with Grade Pay of Rs.7600/- on dated 08.10.2013 and the State Government, vide Memo No.5152 dated 18.10.2013, allowed the Petitioner to join the said post albeit on Deputation, while retaining her lien against the substantive post of CDPO, subsequently she joined on the post of Deputy Registrar on 19.10.2013 (Annexure P/5& P-5/1 of the Writ Petition).

6. Learned counsel for the petitioner further submits that the Respondent University vide letter no. 331 and 330 dated 31.01.2017 based on the petitioner's satisfactory services during her probation period on the said post, took a conscious decision to confirm the petitioner on the post of Deputy Registrar w.e.f. 18.10.2014, and specifically directed petitioner to tender resignation from the previous post under the Department of Social Welfare, Govt. of Bihar to avoid further complications (Annexure P/6 and Annexure P-6/1 of the Writ Petition). Pursuant thereto, petitioner submitted her resignation to the State Government on 02.02.2017 which was accepted by the State Government vide memo no. 2328 dated 31.05.2017 with effect from 18.10.2013 i.e., the date of initial appointment of



petitioner to the post of Deputy Registrar (Annexure P/7 of the Writ Petition).

7. Learned counsel then submits that it appears that the aforesaid confirmation of petitioner on the post of Deputy Registrar, was not to the liking of some vested interest and therefore, an attempt was made to somehow prejudice the same by raising stale and frivolous audit objections vide Accounting Memorandum No. SS/II/05-20 dated 18.08.2017 and a report was called from the University. The Registrar of the University, on 19.08.2017, submitted a detailed report specifically admitting therein that the petitioner had been drawing a pay scale much higher than that of Assistant Registrar for more than 10 years and fulfilled all the condition of eligibility required under UGC circulars/regulations for appointment on the post of Deputy Registrar, which had duly been considered by a statutory Selection Committee as well as the Executive Council of the Respondent University at the time of her initial appointment. The aforesaid objection as well as the report of the University was duly considered by the Senior Audit Officer, Account General (Audit), Bihar and having found the same to be satisfactory, no further objection to the appointment of petitioner was raised in the final form submitted pursuant to such Audit



(Annexure P/8 of the Writ Petition)

8. Learned counsel for the petitioner further submits that another complaint was filed before the Governor's Secretariat/ Hon'ble Chancellor (Respondent No. 4). Then one Mr. Anil Kumar (Joint Secretary, Governor's Secretariat) requested a report from the University against the said complaint. In response, the registrar of the University submitted a detailed report on 25.01.2018. The report confirmed the petitioner's appointment and provided details of her educational qualifications and administrative experience. It also mentioned the petitioner's confirmation and that she had resigned from her previous post as per the University's direction, ending her permanent lien. The University again affirmed the correctness of her appointment as Deputy Registrar (Annexure P/9 of the Writ Petition). Subsequently, the Respondent No. 4 being satisfied with the report submitted by the Registrar of the University did not take any further action.

9. Thereafter, a CWJC No. 5406 of 2020 via a Public Interest Litigation (PIL) was filed before this Court, wherein the petitioner was listed as Respondent No. 09. Then the Respondent University therein filed a Counter and Supplementary Counter Affidavit, wherein they relying on



records, advertisements, and regulations, reaffirmed the validity of the petitioner's appointment, stating that she had the required qualifications and equivalent work experience (Annexure P/10 & P/10-1 of the Writ Petition).

10. While the matter was pending for adjudication, another writ petition, CWJC No. 334 of 2022, was filed before this Court, again challenging the appointment of the petitioner on the aforesaid post which was made nearly a decade earlier, and this Court, without commenting on the merits, disposed of the case on 13.01.2022, granting liberty to the petitioner namely Mr. Pankaj Suman to file a representation before the Hon'ble Chancellor of Universities, or to any other statutory authority (Annexure P/11 of the Writ Petition).

11. Learned counsel for the petitioner submits that under the garb and umbrella of the liberty granted by this Court vide order dated 13.01.2022, a representation dated 28.01.2022 was filed by Mr. Pankaj Suman (Annexure P/12 of the Writ Petition) before the Hon'ble Chancellor, wherein all previous enquiries were deliberately and intentionally suppressed.

12. The Respondent University by the order of Vice Chancellor, the Registrar acting in collusion with the complainant, suppressed records and submitted misleading



information through Letter No. 2620 dated 26.08.2022 (Annexure P/13 of the Writ Petition) before the Hon'ble Chancellor. The key details, including the petitioner's selection, confirmation, and prior auditing report vide Annexure P/8 and Annexure P/9 in 2017 and 2018 respectively, were concealed. The University misrepresented the advertisement conditions and failed to disclose that the petitioner had over five years of administrative experience in a higher-ranking post than Assistant Registrar. This deliberate suppression aimed to prejudice the petitioner.

13. Learned counsel for the petitioner further submits that on 03.10.2023, the petitioner submitted her written submission against the said representation, detailing her qualifications and experiences. She asserted that her previous post as CDPO in Department of Social Welfare was superior in rank and pay scale to Assistant Registrar. She emphasized in her Written Submission that her selection was properly considered by the Selection Committee and approved by the Executive Council. The advertisement itself allowed relaxation in qualifications and experience. Moreover, no complaints had been raised about her qualifications from her appointment in 2013 until her confirmation in 2017. She also highlighted that she resigned



from her previous post only on the University's directive, making reversion impossible (Annexure P/14 of the Writ Petition).

14. Learned counsel for the petitioner submits that without reviewing the records or advertisement terms, and misled by the complainant and University's misrepresentation, the Hon'ble Chancellor passed a final order on 26.09.2023. The order stated that while the petitioner met the educational qualifications, she lacked work experience in the educational field. This decision was communicated to the petitioner on 06.01.2024, after expiry of more than three months of passing of the order dated 26.09.2023 (Annexure P/15 of the Writ Petition).

15. Learned counsel for the petitioner submits that the order dated 26.09.2023 has been passed by ante-dating which is evident from the fact that though the order shows to be passed on 26.09.2023 whereas it has been communicated only on 06.01.2024. Moreover, the petitioner has also filed a Written Submission dated 03.10.2023 which also shows that the order was not passed till then however same has been passed at a later stage by ante-dating. As submitted, this appears to have been done just to get away from the binding judicial pronouncement of Hon'ble Supreme Court in the Case of *Anil Rai vs. State of*



Bihar reported in ***2001 (7) SCC 318*** wherein Hon'ble Apex Court has issued directions with respect to the passing of duration of time within which the order has to be passed after reserving the matter for passing final judgment.

And this fact, as submitted by the Learned counsel for the petitioner, has been done by the Officer on Special Duty (Judicial) by keeping the Hon'ble Chancellor in dark just in order to save his skin from any punitive action which might have been initiated by the Hon'ble Chancellor against him in administrative side.

16. Learned counsel for the petitioner further submits that the order issued by the Respondent No. 04 is erroneous, illegal, and ignores Chapter I, Clause 6(f) of the University Statute, 2011 which is mentioned herein as below : -

Clause 6(f) - Notwithstanding anything contained in the Act or the Statute, the Executive council may appoint an officer of the Central or State Government to be the Registrar on such terms and conditions as may be prescribed by the Executive Council in consultation with the State Government.

The Respondent No. 04 failed to consider numerous instances where government officials, based on administrative experience, were appointed to non-teaching posts like Registrar



and Deputy Registrar. The said order also overlooked that the advertisement allowed relaxation in qualifications, including work experience. The petitioner was compelled to resign from her previous job due to confirmation as Deputy Registrar, making it unjust for the University to later question her qualifications. Additionally, the complaint was filed nearly a decade after her appointment and should have been dismissed as stale and baseless.

17. Furthermore, it is manifest that the petitioner not only held the Educational Qualification but also had more than sufficient work experience for the post of Deputy Registrar and had also gained sufficient work experience as Deputy Registrar for almost 10 years till the date of passing of the impugned Order. The petitioner, without admitting anything to the contrary, states that in view of specific provisions in the advertisement as well as the Statute, for relaxation of Educational Qualification and/ or Work Experience, coupled with the fact that petitioner had gained experience of almost 10 years on the post of Deputy Registrar as well as the fact that on the orders, assurance and promise of the Respondent University, the petitioner had changed her position and resigned from a permanent Government post after she was confirmed on the post



of Deputy Registrar.

18. Learned counsel submits that the impugned Notification issued vide Memo No. 120 dated 06.01.2024 in the light of Letter No.- A.K.U.(HC)-02/2022-07/GS(I) dated 03.01.2024 of Governors' Secretariat, Bihar, Raj Bhawan, Patna and the impugned order No. A.K.U-02/2022 dated 26.09.2023 passed by the Hon'ble Chancellor (Respondent No. 04) are illegal, arbitrary, and perverse and also in violation of Article 14 and 16 of the Constitution of India. The orders impugned are illegal and unsustainable against the petitioner on the Principle of Promissory Estoppel and Principle of Legitimate Expectation on the part of Respondent Authorities, since the petitioner was directed to resign from her previous government post by the Respondent University and her post got confirmed as Deputy Registrar by this same respondent authority. Learned counsel relied on the judgment of the Hon'ble Apex Court in the case of ***Maitreyee Chakraborty vs The Tripura University and Ors.*** reported in (2024) INSC 616 wherein it was discussed that -

32. In *Ram Pravesh Singh v. State of Bihar*, (2006) 8 SCC 381, this Court observed that the repository of the legitimate expectation is entitled to an explanation as to the cause for denial of the expected benefit flowing from the representation held out. *Ram Pravesh Singh*



(supra) was recently followed by the Constitution Bench in Sivanandan C.T. v. High Court of Kerala, (2024) 3 SCC 799. Chief Justice D.Y. Chandrachud, speaking for the Constitution Bench, after felicitously tracing the entire history of the development of the doctrine of legitimate expectation, held in para 18 as under: —

“18. The basis of the doctrine of legitimate expectation in public law is founded on the principles of fairness and non-arbitrariness in Government dealings with individuals. It recognises that a public authority's promise or past conduct will give rise to a legitimate expectation. The doctrine is premised on the notion that public authorities, while performing their public duties, ought to honour their promises or past practices. The legitimacy of an expectation can be inferred if it is rooted in law, custom, or established procedure.”

19. Further, the counsel for the petitioner submitted that the order impugned is illegal in light of the Resolution No. 2693 dated 30.08.2010 passed by the Department of HRD, Govt. of Bihar based on the guidelines of the UGC, New Delhi and also as none of the ground of termination/dismissal as mentioned in the Clause 31 of Chapter 2 of the Statutes of the University, 2011, was invoked while terminating the petitioner. Moreover, mandates of Clause 36 and 39 of Chapter 2 of the said Statute has not been fulfilled and it shows that the Hon'ble Chancellor



had no jurisdiction over the subject matter of termination and subject matter of equivalence of posts it is an appellate authority. The Hon'ble Chancellor is not the competent authority to decide the equivalence of post, it can only be decided by an expert committee.

20. To buttress his submission, learned counsel for the petitioner submits that there are catena of Judgments of the Hon'ble Apex Court wherein the Hon'ble court has discussed about the role of selection committee so appointed as per the rules and regulations of the Statues and for the purpose of the selection of the candidature such as in the case of ***Dalpat Abasaheb Solunke and Ors. vs. Dr. B.S. Mahajan and Ors.*** reported in ***(1990) 1 SCC 305*** especially in paragraph 12 the apex court held -

12. It will thus appear that apart from the fact that the High Court has rolled the cases of the two appointees in one, though their appointments are not assailable on the same grounds, the court has also found it necessary to sit in appeal over the decision of the Selection Committee and to embark upon deciding the relative merits of the candidates. It is needless to emphasise that it is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post



or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting the selection etc. It is not disputed that in the present case the University had constituted the Committee in due compliance with the relevant statutes. The Committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made and in setting it aside on the ground of the so called comparative merits of the candidates as assessed by the court, the High Court went wrong and exceeded its jurisdiction.

Emphasis supplied

21. In the case of ***M.V. Thimmaiah and Ors. vs UPSC and Ors.*** reported in ***(2008) 2 SCC 119*** in paragraph 21, 32 and 39 the apex court held -

21. Now, comes the question with regard to the selection of the candidates. Normally, the recommendations of the Selection Committee cannot be challenged except on the ground of mala fides or serious violation of the statutory rules. The courts cannot sit as an Appellate Authority to examine the recommendations of the Selection Committee like the court of appeal.



This discretion has been given to the Selection Committee only and courts rarely sit as a court of appeal to examine the selection of the candidates nor is the business of the court to examine each candidate and record its opinion.

.....

32. Our attention was invited to a decision of this Court in Dalpat Abasaheb Solunke v. Dr. B.S. Mahajan [(1990) 1 SCC 305 : 1990 SCC (L&S) 80 : (1991) 16 ATC 528] wherein it was observed as follows: (SCC pp. 309-10, para 12) “12. ... it is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinise the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The court has no such expertise. ... in the present case the University had constituted the Committee in due compliance with the relevant statutes. The Committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made and in setting it aside on the ground of the so-called comparative merits of the candidates as assessed by the court, the High Court went wrong and exceeded its jurisdiction.”

39. It was also pointed out that in the case of Shri N. Sriraman and Shri K. Ramanna Naik, the Selection Committee downgraded their reports from “outstanding” to “very good” yet they were



selected. Similar is the case with Shri K.L. Lokanatha who has not been selected. Likewise the Selection Committee upgraded the assessment for the year 2001-2002 from “very good” to “outstanding” yet he could not be selected. Therefore, this is also the process of selection and the Selection Committee is constituted by the Commission and headed by the member of the Commission, we have to trust their assessment unless it is actuated with malice or apparent mistake committed by them. It is not the case of pick and choose, while selection has been made rationally. The selection by expert bodies unless actuated with malice or there is apparent error should not be interfered with.

Emphasis supplied

22. Further, in the case of ***Commissioner of Police vs. Raj Kumar*** reported in ***(2021) 8 SCC 347***, in paragraph 28 the apex court held -

*28. Courts exercising judicial review cannot second guess the suitability of a candidate for any public office or post. Absent evidence of malice or mindlessness (to the materials), or illegality by the public employer, an intense scrutiny on why a candidate is excluded as unsuitable renders the courts' decision suspect to the charge of trespass into executive power of determining suitability of an individual for appointment. This was emphasised by this Court in *M.V. Thimmaiah v. UPSC* [*M.V. Thimmaiah v. UPSC*, (2008) 2 SCC 119] which held as follows:*



(SCC pp. 131, 135-36, paras 21 & 30)

“21. Now, comes the question with regard to the selection of the candidates. Normally, the recommendations of the Selection Committee cannot be challenged except on the ground of mala fides or serious violation of the statutory rules. The courts cannot sit as an appellate authority to examine the recommendations of the Selection Committee like the court of appeal. This discretion has been given to the Selection Committee only and courts rarely sit as a court of appeal to examine the selection of the candidates nor is the business of the court to examine each candidate and record its opinion. ...

* * *

30. We fail to understand how the Tribunal can sit as an appellate authority to call for the personal records and constitute Selection Committee to undertake this exercise. This power is not given to the Tribunal and it should be clearly understood that the assessment of the Selection Committee is not subject to appeal either before the Tribunal or by the courts. One has to give credit to the Selection Committee for making their assessment and it is not subject to appeal. Taking the overall view of ACRs of the candidates, one may be held to be very good and another may be held to be good. If this type of interference is permitted then



it would virtually amount that the Tribunals and the High Courts have started sitting as Selection Committee or act as an appellate authority over the selection.”

23. Based on the above-mentioned cases the coordinate bench of this court has also followed and reiterated the above-mentioned cases in numerous cases such as in the case of ***Manoranjan Priyadarshi vs. The Vice Chancellor, Aryabhat Knowledge University, CWJC No. 4503 of 2015***, in paragraph 14 this court held -

14. In my considered view, the Selecting Body has to follow the conditions laid down in the Advertisement strictly. However, if there is a provision to relax the qualification or experience, this Court will not go back and try to find out any reasons as to why relaxation was granted. A person, who has been selected by the Selecting Body, having lesser experience than the requisite experience, shall be presumed to have been granted the relaxation by the Selecting Body and this Court would not demand an explanation from the said Selecting Body and it is in their exclusive domain, as laid down in the Advertisement itself.

24. Thereafter, in the case of ***Dr. Raj Kishore Prasad vs. The Patna University and Ors., L.P.A. No. 1106 of 2011***, this court has held that,

In the matter of Dalpat Abasaheb Solunke and others (supra), the Hon'ble Supreme Court has



categorically held that the matter of comparative merits of the candidates should be left to the duly constituted selection committee. The High Court went wrong and exceeded its jurisdiction in sitting in appeal over the decision of the selection committee and in setting it aside.

In the matter of B. C. Mylarappa Alias Dr. Chikkamylarappa Vs. Dr. R. Venkatasubbaiah and Others (2008) 14 SCC 306, the Hon'ble Court held that in absence of malafide alleged against the selection committee, the High Court ought not to have interfered with the selection made by the selection committee on the basis of assessment of relative merit. The High Court was not justified in drawing adverse inference against the selection committee.

In the Basavaiah (Dr.) Vs. Dr. H.L. Ramesh and Ors. (2010) 8 SCC 372, once again the Hon'ble Court reiterated that the Courts, in exercise of their power of judicial review, should not interfere with the selection made by the expert committee.

In the matter of Dr. Triloki Nath Singh Vs. Dr. Bhagwan Din Misra and Others (1990) 4 SCC 510, the question was that of appointment of Reader in "Linguistics". The expert committee constituted for selection comprised the experts in Hindi Language. On close scrutiny of the relevant statutes, the Hon'ble Court held that the University had offered two separate and distinct courses, one in Linguistics and another in Hindi Language. The Linguistics being distinct and distinguished from Hindi language and



literature, the expert should have comprised the expert in Linguistics and not in Hindi language.

In the matter of G. N. Nayak Vs. Goa University and Others (2002) 2 SCC 712, the Hon'ble Court rejected the challenge on the ground of bias and upheld the appointment of the appellant as Professor of Marine Science in University of Goa.

In my opinion, the learned single Judge has fallen in manifest error. First; the learned single Judge has not taken into consideration the delay in challenge to the selection of the appellant. Although the appellant was selected and appointed as early as on 3rd June 2009; his appointment was approved by the University Syndicate on 10th June 2009 and the Notification was issued on 15th July 2009; the petitioners did not challenge the said selection and appointment for one and half years and allowed the appellant to take over as the Principal and function as such without demur. The petitioners thus allowed the matter to settle. The aforesaid delay has not been explained by the petitioners at all. The learned single Judge ought not to have entertained the challenge made after unexplained delay.

Second; the learned single Judge has erred in holding that the Nara Institute is not recognized and that the appellant did not acquire requisite experience of 10 years. I am of the opinion that the academic matter should best be left for consideration by the University. The High Court is not competent to interfere in the academic



matter in exercise of power conferred by Article 226 of the Constitution. That is the view of the Hon'ble Supreme court in the matter of Tariq Islam Vs. Aligarh Muslim University and Others (2001) 8 SCC 546.

25. Learned counsel for the petitioner further submits that the impugned order of the Respondent No. 4 is based on two observations: (i) that the CDPO serves as a supervisory authority for Anganwadi Centres, and (ii) that the work culture of a CDPO is not connected with the educational field, as the role of an Assistant Registrar is fundamentally different, and the two positions cannot be considered equivalent. However, both observations are erroneous, legally flawed, perverse, and contrary to facts and law. The order has been passed by disregarding, overlooking, suppressing, and misrepresenting the provisions of the advertisement, the criteria established by the University Grants Commission (UGC), New Delhi, and Clause 6(f), Chapter I of the Statutes of the University (2011), which govern the appointment of a Deputy Registrar.

26. The Respondent No. 4 erred in holding that the CDPO is merely a supervisory post for Anganwadi Centres, disregarding the fact that it is a State Government Gazetted Cadre post, superior to the supervisor role. As head of block/district-level offices and an assistant to the Director at the



State level, the petitioner's 11-12 years of administrative experience as CDPO is equivalent to five years as Assistant Registrar.

27. Lastly, the learned counsel for the petitioner submits that the impugned order is unsustainable, as the action of the expert committee cannot be questioned or reopened after the petitioner has rendered more than ten years of exemplary service, merely on the ground of a lack of initial experience, which has now been rectified by the sheer efflux of time. For, this averment the learned counsel relied upon the case of ***Buddhi Nath Chaudhary and Ors. etc. vs. Abahi Kumar and Ors. reported in (2001) 3 SCC 328*** and the case of ***Vivek Kaisth and Anr. vs The State of Himachal Pradesh and Ors. reported in (2024) 2 SCC 269*** wherein the Hon'ble apex court equitably considered the matter of the appellants and allowed the appeals and also mentioned that in this type of cases there is a special equity which leans in favour of the appellant.

28. Per contra, the learned counsel for Respondent No. 04 submits that although the petitioner had applied for the post of Deputy Registrar, she neither had experience as an Assistant Professor in the AGP of Rs. 6,000 and above with experience in educational administration nor comparable experience in a



research establishment or other institutes of higher education. Additionally, the petitioner did not have five years of administrative experience as an Assistant Registrar in any university. However, she filled out the application form and stated that she had ten years and ten months of experience in the development of education and health services as a C.D.P.O. It is pertinent to mention that the experience prescribed for the post of Assistant Registrar is different from that required for the position of C.D.P.O. Furthermore, the petitioner did not have three years of experience as a Section Officer or Superintendent in a central or state university office, nor did she have five years of experience as an Assistant Professor or Lecturer in a college, university, or any other autonomous institution with experience in educational administration.

29. Further, it is contended by the learned counsel that the post of C.D.P.O can't be equivalent to the post of Assistant Registrar. As, the work of C.D.P.O is to supervise the Angan wadi which relating to the Child Development and the work culture of the C.D.P.O is not related with the higher educational field, in this way the nature of work of the C.D.P.O is quite different from the Assistant Registrar of any University.

30. Further, it is submitted that the petitioner was not



eligible for the post of Deputy Registrar because she had not minimum eligibility of experience. This matter has been examined by the Hon'ble Chancellor in compliance with the order passed by this Hon'ble Court in CWJC No. 334 of 2022. In the light of the order passed by this Hon'ble Court and report call from the office of the Hon'ble Chancellor, the University examines the matter of petitioner and found that she had not minimum qualification of experience for the post of Deputy Registrar and accordingly report was submitted.

31. Learned counsel for Respondent No. 4 mentioned that the office of the Accountant General has not accepted the report submitted by the University regarding the matter of petitioner, this fact evident from the inspection report No.-97/17-18 submitted by the office of the Accountant General. The said inspection report was issued from the office of the Principal Accountant General (audit), Bihar, Patna vide letter no-05 dated 17.07.2018 (Annexure R/1 of the Counter Affidavit).

32. Further, with respect to the CWJC 5406 of 2020, the same had been heard by the coordinate bench of this Court and this Court has been pleased to dispose of the matter without giving any observation on merit on dated 11.08.2023 (Annexure R/2 of the Counter Affidavit).



33. It is also submitted by the learned counsel for Respondent No. 4 that in compliance with the order dated 13.01.2022 passed by this Court in CWJC No. 334 of 2022, the Officer on Special Duty (Judicial), Governor's Secretariat sought a comprehensive report in the matter of appointment of petitioner to the post of Deputy Registrar, Aryabhata Knowledge University, Patna, Bihar vide letter no. AKU-02/2022-342/GS(1) dated 25.03.2022, and the answering University in compliance of the letter no. AKU-02/2022-342/GS(I) dated 25.03.2022, issued a show cause notice to the petitioner vide letter no. 002/Registrar/023/AKU/2022-992, dated 08.04.2022, and subsequently the petitioner submitted details of her reply to the said show cause notice on 18.04.2022.

34. Thereafter, the counsel submits that based on the reply of the petitioner to the aforesaid Show Cause, the answering University vide letter no.012/Registrar/023/AKU/ 2022-2620 dated 26.08.2022 submitted a comprehensive report to the Officer on Special Duty (Judicial) Governor's Secretariat, Bihar, Patna, wherein it has been mentioned that “upon meticulous examination of the provisions contained in Section- 'B' of the Advertisements” and the application form submitted by petitioner for gaining appointment on the post of Deputy



Registrar in the University, the appointment of petitioner lacks in her experience to continue on the post of Deputy Registrar in the Aryabhatta Knowledge University, Patna (Annexure R/3 of the Counter Affidavit).

35. The order dated 26.09.2023, passed by the Hon'ble Chancellor (Respondent No. 4) is in compliance of this Court vide order dated 13.01.2022 passed in CWJC No. 334 of 2022, and the said order has been received to the answering University vide letter no. AKU-(HC)-02/2022-07/GS(I) dated 03.01.2024. The said order of the Respondent No. 04 is passed after hearing both the parties and on merit.

36. Learned counsel for Respondent No. 4 also stated that after hearing the case on different dates and considering the show cause filed by the petitioner the Respondent No. 04, thereafter gone through the entire facts of the case and passed an order wherein it has been observed that "CDPO" generally deals with the Anganwadi (an institution relating to the Child Development) and they are the Supervisory authority of Anganwadi. Nowhere the work culture of the CDPO is connected with educational field as the work nature of the Assistant Registrar of any university is quite different and it can't be said that both are at par..." and finally passed the order



that ". The appointment of Smt. Kumari Anjana was not in consonance with the qualifications required as per the advertisement". And cancelled the appointment of the petitioner.

37. Thereafter the answering University in its 49th meeting of Executive Council dated 05.01.2024, discussed the matter in length and decided to terminate the service of the petitioner from the University as Deputy Registrar forthwith, consequently, the answering University issued a notification vide memo no. 003/Admn/01-28/AKU/2015 (II) 120 dated 06.01.2024, in light of the decision taken by the Executive Council of the University in its 49th meeting held on 05.01.2024, the service of Smt. Kumari Anjana, Deputy Registrar is terminated with immediate effect.

38. Lastly, the Learned counsel submitted that after passing the said order petitioner again filed a show cause dated 03.10.2023 in the office of the Hon'ble Chancellor (In counter) which is kept on records only, and with respect to the relaxation of educational qualification and/or work experience the same cannot be applied to favor someone. It is further submitted that no further advertisement was published for relaxation of educational qualification and/or work experience. Thus, it is submitted that the petitioner had no minimum experience as per



the advertisement for the post of Deputy Registrar and so the petitioner is not entitled for grant of any relief by this Court.

39. Thereafter, the Learned counsel for the Respondent No. 5 & 6 in its counter affidavit submitted that the selection of the petitioner was done following all the due procedure of law. The petitioner was one of the applicants for the post of Deputy Registrar. There were total 12 (twelve) candidates appeared for interview before the Selection Committee duly constituted as per the Section 22 (b) and 22(b) (iii), Chapter I of the Aryabhatta Knowledge University Statute 2011 (Annexure R/2 of the Counter Affidavit). The Selection Committee prepared a list containing marks obtained by the candidates on the basis of academic records, experience and interview as per provisions prescribed in the 'Ordinance' regarding the procedure to be followed by the Selection Committee for appointment of teachers and officers. The petitioner secured first rank among all the candidates who appeared in the interview (Annexure R/3 & R/4 of the Counter Affidavit).

40. Subsequently, the recommendation of the Selection Committee was placed before the 1st Executive Council, notified by the State Government. The said Executive Council approved the recommendation of the Selection Committee in its 13th



meeting dated 03.10. 2013 (Annexure R/5 & R/6 of the Counter Affidavit) and based on approval of the recommendation the University issued appointment letter of Kumari Anjana at the post of Deputy Registrar, vide memo no. 356 dated 08.10.2013.

41. Lastly, the learned counsel for the Respondent No. 5 & 6 submitted regarding the observation by the audit team regarding the pay structure of the petitioner, it is clarified that following the explanation of the University regarding the given pay fixation to the petitioner, there was no particular objection on her pay fixation, but an observation that the pay fixation of officers including Deputy Registrar was not approved by the state government (Annexure-R/1 of the Counter Affidavit by Respondent 4). Later, the University got State Government approval on the pay fixation of the petitioner (Annexure R/8 of the Counter Affidavit).

42. Having considered the arguments advanced by the learned counsel for both parties, one important question that is required to discuss herein that “Whether the post of CDPO will fall under the ambit of ‘Equivalent Post’ as mentioned in the advertisement dated 19.08.2011 published by the Aryabhata Knowledge University?”

43. Now, before considering the rival submissions over



the issue in question, I find it apt to reproduce Section 2 (am) of the Bihar State University Act, 1976 (hereinafter referred to as Act of 1976) hereunder-

Section 2(am).Other Equivalent Post - means any other post the scale of pay of which is equivalent or an may be declared so by the State Government.

Emphasis added

44. From a thorough examination of the relevant provisions of the Bihar State University Act, 1976, the Aryabhatta Knowledge University Statute of 2011, and the advertisement dated 19.08.2011 issued by Aryabhatta Knowledge University inviting applications for various academic, administrative, and non-teaching positions, including the post of Deputy Registrar, it is evident that the petitioner applied for the said post based on her educational qualifications and her five years of administrative experience as an Assistant Registrar or in an equivalent position.

45. The Act of 1976 explicitly defines the term "equivalent post", as mentioned aforesaid. In light of this, the determination of an equivalent post should be based on the petitioner's previous pay scale while serving as a Child Development Project Officer (CDPO) in the Department of



Social Welfare, Government of Bihar, as per Memo No. 1689 dated 11.10.2000. A review of the records submitted by the petitioner reveals that her pay scale upon joining as CDPO was ₹6,500–10,500, which was later revised to Pay Band-2 (PB-2) with a grade pay of ₹4,800, effective from 01.01.2006. She was subsequently granted the benefit of the 1st ACP, placing her in PB-2 with a grade pay of ₹5,400.

46. In contrast, Annexure P/3 of the writ petition states that the unrevised pay scale for the post of Assistant Registrar was ₹5,500–9,000, which was later revised to PB-2 with a grade pay of ₹4,200, effective from 01.01.2006. Therefore, even after the revision, the pay scale of the CDPO position remains higher than that of the Assistant Registrar, thereby justifying the petitioner's claim of holding an equivalent post.

47. It would manifest that the post of Deputy Registrar has been identified as the officer of the University in addition to the officers mentioned in Section 2 of the Statutes of 2011. The post of Deputy Registrar is not only a post of repute but it embodies the functionality of discharging important administrative function, taking important decisions as well as representative character. It is a post of high accountability and high responsibility. Similarly, if the post of Deputy Registrar is



pivotal to a university, then the appointment as well as termination has to be done in a prescribed procedure and it cannot be an act of haste under the shadows of opaqueness and subjectivity.

48. Another contention raised and rebut by the parties regarding the “relaxation of the minimum requirement of Qualification and/or Experience”, it is found on the perusal of the record vide Advertisement No. 003/Adm/661-023/AKU/2011 dated 19.08.2011 annexed in the series of the Annexure P/2 of the writ petition wherein the respondent University by the order of the Vice Chancellor issued by the Registrar under the heading of “*RECRUITMENT ACADEMIC, ADMINISTRATIVE AND NON-TEACHING POSITIONS GENERAL CONDITIONS*” wherein clause 8(i) of the Section A, specifically discusses about the rights that a University reserves. I find it apt to reproduce clause 8(i) of the Section A of the said General Conditions hereunder –

Section A

8. The University reserves the right to-

a)

i) Relax minimum requirements of qualification and/or experience on the recommendation of the Screening /Selection committee.



Thus, in the light of above-mentioned paras as well as the general conditions mentioned along with the published advertisement, I found that it is the sole recommendation of the selection committee to relax the minimum requirements of qualification and/or experience and based upon such recommendation the University's right reserves to do the necessary changes accordingly. However, in the present fact and circumstance of the case, the selection committee did not relax the minimum requirements of qualification and/or experience for the appointment of petitioner, and subsequently the petitioner got selected on merit as recommended by the selection committee.

49. It is also important to mention here that Respondent No. 5 & 6 has specifically stated in the counter affidavit that the Section Committee has been constituted based on the lawful provisions of the Aryabhatta Knowledge University Statute, 2011, so now it is an undisputed fact the selection committee has not been constituted as per the provisions and also both the parties of the present writ petition is not denying this fact. Therefore, the case laws relied upon by the petitioner specifically the case of *Dalpat Abasaheb Solunke (supra)*; *M.V. Thimmaiah and Ors (supra)*; and *Commissioner of*



Police (supra) and their respective paras as above mentioned become relevant and support the case of petitioner. So, I accordingly relying on these judgments of the Hon'ble apex court found that it is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates.

50. Another issue which assumes importance is the delay in challenge to the appointment to the petitioner as well as the deliberate concealment on the part of concerned officials about the factum of previous inquiries conducted with respect to petitioner in the year 2017 and 2018. It is apparent from the effective concealment that the Act of termination of the petitioner is tainted with malice as the concerned officials have deliberately concealed the previous inquiries conducted by the office of Accountant General and Hon'ble Chancellor in 2017 and 2018 wherein the report favoured the petitioner, thereby misleading the Hon'ble Chancellor in passing of an erroneous order. Also, the delay in challenge to the appointment of the petitioner also shows that the entire action was effectuated with malice and this court is of opinion that the order of termination of the petitioner is also fit to be set aside in light of Principles of equity.



51. In my considered view, the petitioner has successfully undergone probation period and are efficiently serving on the post of Deputy Registrar, Aryabhatta Knowledge University for an around nine years and undoubtedly her termination would not only impinge upon the economic security of the petitioner and her dependents but also adversely affect her bright career. This would be highly unjust and grossly unfair to the petitioner who got appointment based on the recommendation of selection committee duly constituted as per the Aryabhatta Knowledge University Statute, 2011 and approval on dated 03.10.2013 by first Executive Council duly constituted by the State Government. However, her continuation in service should neither give any unfair advantage to the respondent University nor cause any undue prejudice to the candidates who had not got selected qua the merit list.

52. Having perused the record produced by the officials of Raj Bhawan, the court comes to the conclusive finding that the order in the appeal was passed by antedating it just in order to defeat the mandatory directions of the Hon'ble Apex Court. From the record, it appears that the matter was heard on various dates and thereafter on 26.09.2023 the order was reserved. On 03.10.2023, the Written arguments were submitted by the



petitioner in the office of the Hon'ble Chancellor but in first week of January, 2024, i.e., 06.01.2024, the petitioner got a copy of the judgment. On this aspect, the queries made by the court but could not be answered by the Officers on Special Duty (Judicial) and Officers on Special Duty (University) of the Governore's Secretariate. They simply tried to evade giving direct replies by tendering oral apologies. The query of the court was intended to examine the delay caused in passing of the order and communication thereof, however, not even a single satisfactory answer was provided by the Officers on Special Duty (Judicial) and Officers on Special Duty (University) of the Governore's Secretariate except for tendering oral apologies, thus showing the clear case of ante-dating.

53. The ratio of judgment of *Anil Rai (Supra)* applies with full force throughout the country on all the institutions discharging judicial and quasi- judicial functions. It appears that just with a view to avoid the mandatory direction passed by the Hon'ble Supreme Court prescribing and limiting the period within which the reserved order has to be delivered, the Officers on Special Duty (Judicial) and Officers on Special Duty (University) keeping the Hon'ble Chancellor in dark got the order of appeal signed by ante-dating it.



54. Consequently, in light of the discussions made herein above and based on the aforesaid principle this court is of the view that the order dated 26.09.2023 passed by the Respondent No. 4 as well as the consequential order issued vide Memo No. 120 dated 06.01.2024, cancelling the appointment of petitioner as Deputy Registrar, Aryabhata Knowledge University, Patna be non-est and not sustainable in the eyes of law, hence set aside.

55. In the result, this writ petition is allowed based on aforesaid terms and pending applications, if any, shall also stands disposed of.

56. The respondents are directed to re-instate petitioner in service with all consequential benefits forthwith.

57. Before parting, I find it apposite to highlight the grave issues which have been found during the course of hearing of instant matter which raises serious concern on the quality of work, the manner in which it is executed; as well as discharging of official responsibilities by officials in the Secretariat of Hon'ble Chancellor.

58. The office of the Hon'ble Chancellor is a statutory position, and the Hon'ble Governor, by virtue of holding the post of Governor, assumes the role of Chancellor of the



Universities of Bihar as per the provisions of the Bihar State University Act, 1976 and, to assist the Hon'ble Chancellor in discharging his official, legislative, executive, statutory, and quasi-judicial functions, officers from the administrative and judicial services are deputed to the Governor's Secretariat for a specific term, in accordance with the prevailing rules and notifications of the Government of Bihar. These officers, once posted in the Governor's Secretariat, are duty-bound to present accurate facts, relevant statutory provisions, and existing judicial precedents on various issues. This ensures that the Hon'ble Chancellor can make well-informed decisions and issue orders in compliance with statutory provisions and established judicial pronouncements.

59. However, in the present case, I found allegations of ante-dating in the order passed by the Hon'ble Chancellor. Therefore, it was deemed appropriate to summon Officer on Special Duty (Judicial), Shri Balendra Shukla, and Officer on Special Duty (University), Shri Mahavir Prasad Sharma, along with the original record of the petitioner's appeal in a sealed cover, as per the order dated 21.03.2024. Upon perusal of the records and upon inquiry from the aforesaid officials, I found that the allegations of ante-dating had merit. Consequently, the



officials failed to provide satisfactory answers to the questions posed by the Court and instead tendered their oral apologies.

60. In my considered opinion, the designations of Officer on Special Duty (Judicial) and Officer on Special Duty (University) are positions of high responsibility and integrity, as it is their bounden duty to assist the Hon'ble Chancellor in passing just, fair, and legal orders or directions. However, in the present case, I find that these responsibilities have not only been overlooked by the concerned officials but that they have also deliberately concealed crucial facts, thereby misleading the Hon'ble Chancellor into passing an erroneous order. Consequently, I find it appropriate to hold that the concerned officials "Officer on Special Duty (Judicial) and Officer on Special Duty (University)" are unfit for their respective positions and should be sent for appropriate training.

61. Accordingly, I direct that this order be placed before the Hon'ble Acting Chief Justice for appropriate action concerning Shri Balendra Shukla, Officer on Special Duty (Judicial), who holds the rank of Additional District and Sessions Judge and falls under the administrative jurisdiction of the Hon'ble Patna High Court. Furthermore, with respect to Shri Mahavir Prasad Sharma, Officer on Special Duty (University),



the Court directs the Principal Secretary to the Hon'ble Governor to place the matter before the Hon'ble Chancellor for necessary action.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	31.01.2025
Uploading Date	05.03.2025
Transmission Date	

