

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.229 of 2019
In
Civil Writ Jurisdiction Case No.9251 of 2018

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1. Lalit Narayan Mithila University and Ors Kameshwar Nagar, Darbhanga through its Registrar
 2. The Vice Chancellor Lalit Narayan Mithila University, Darbhanga
 3. The Registrar Lalit Narayan Mithila University, Darbhanga
 4. The Finance Officer Lalit Narayan Mithila University, Darbhanga

... .. Appellant/s

Versus

1. Jarman Singh and Ors S/o Late Triveni Singh Vill.- Madhurapur, P.s.- Teghra, Distt.-Begusarai, working as a Lecturer in the Department of Philosophy, Maharaja Lakshmishwar Singh Memorial College, Darbhanga
2. The State of Bihar through the Principal Secretary, Department of Higher Education, Govt. of Bihar, Patna
3. The Principal Secretary Department of Higher Education, Govt. of Bihar, Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Behari Sinha, Advocate Mr. Md. Nadim Saroj, Advocate Mr. Iqbal Asif Miaji, Advocate
For the Respondent/s	:	Mr. Shashi Shekhar Tiwari, AC to Aag15

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

2 10-04-2025

Re: I.A. No. 02 of 2019

Heard I.A. No. 02 of 2019.

2. There is a delay of about 165 days in filing
L.P.A. No. 229 of 2019 for the reasons stated in the
application read with the affidavit delay of about 165 days
stands condoned.

3. Accordingly, I.A. No. 2 of 2019 stands allowed.



Re: L.P.A. No. 229 of 2019

The appellants have assailed the order of the learned Single Judge order dated 18.07.2018 passed in CWJC No. 9251 of 2018. The Single Judge after taking note of the decision passed in CWJC No. 17670 of 2017 allowed the writ petition. Further, directing the respondents to restore the petitioner in the status of absorbed employee with all consequential benefits. Feeling aggrieved by the order of learned Single Judge university – appellant preferred the present L.P.A.

2. Respondent - *Jarman Singh* was appointed on 14.05.1985 to the post of Philosophy teacher and the date of eligibility has been taken into consideration as 09.05.1988, this is evident from Annexure – 3 series. Annexure – 3 series do not contain the date of the chart prepared by the concerned authority. However, on 09.07.2005 among others, name of respondent – *Jarman Singh*'s the Philosophy subject read with his date of eligibility as 09.05.1988, his services have been absorbed in MLSM college, Darbhanga, which is a part and parcel of the appellant – Lalit Narayan Mithila University. On certain administrative difficulties, appellant – University have reopened the absorption of the respondent



among others were in order or not?

3. The State government is stated to have sanctioned five posts and respondent being at serial no. 9 is not entitled to be accommodated or absorbed to the post of Philosophy teacher. Resultantly, certain litigations were filed and ultimately Commission was constituted, headed by Justice S.B. Sinha and prior to that Justice S.C. Agarwal.

4. In the light of Justice S.B. Sinha's order dated 16.05.2015, University has taken a decision that respondent – *Jarman Singh* is not entitled to be absorbed in view of the fact that he is ranked at serial no. 9 whereas only five persons could be accommodated in the light of the fact that five posts have been sanctioned by the State government. These material information have not been apprised by the learned Single Judge while passing order on 18.07.2018 passed in CWJC No. 9251 of 2018, hence the present LPA.

5. Learned counsel for the University-appellant vehemently contended that absorption of respondent – *Jarman Singh* was not in order, as there were five sanctioned posts of Philosophy teacher and in the light of the fact that respondent – *Jarman Singh*'s name appears at the serial no. 9, this fact has not been appreciated by learned Single Judge.



6. The aforementioned contention of the University is not appreciable for the reasons that respondent – *Jarman Singh* was absorbed on 09.07.2005. Thereafter, it cannot be nullified in the year 2015 in the light of Justice S.B. Sinha Commission's report dated 16.05.2015. Since Hon'ble the Supreme Court decision in the case of **Secretary, State of Karnataka and Ors. vs. Uma Devi and Ors.** reported in **(2006)4 SCC 1**, in para no. 53 which reads as under:-

“One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *State of Mysore vs. S.V. Narayanappa (1967) 1 SCR 128 : AIR 1967 SC 1071*, *R.N. Nanjundappa vs. T.Thimmiah, (1972) 1 SCC 409 : (1972) 2 SCR 799* and *B.N. Nagarajan vs. State of Karnataka, (1979) 4 SCC 507: 1980 SCC (L&S) 4 : (1979) 3 SCR 937* and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the Courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles



settled by this Court in the cases aboveresferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such *irregularly* appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the Courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.”

underline supplied

The Constitution Bench has held that as on the date of Constitution Bench decision if services of any person had been absorbed, in that event the same shall not be reopened. The aforementioned decision aptly applicable in favour of the



respondent – *Jarman Singh*. Therefore, the appellant – University have not made out a case so as to interfere with the order of learned Single Judge dated 18.07.2018 passed in CWJC No. 9251 of 2018.

7. Accordingly, the present L.P.A. No. 229 of 2019 stands dismissed.

8. Pending I.A.(s), if any, stands disposed of.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Ankit/Sushma/-

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