

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.221 of 2019
In
Civil Writ Jurisdiction Case No.4095 of 2018

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

... .. Appellant/s

Versus

1. Binay Kumar Chaudhary and Ors Sri Vijay Narayan Chaudhary on of Sri Vijay Narayan Chaudhary Resident of Professor Colony, Lal Bagh, P.S. Town P.S. District Darbhanga
2. The State Of Bihar Through The Chief Secretary ,Government Of Bihar Patna Bihar
3. The Principal Secretary, Department of Human Resources Development , Govt. o f Bihar, Patna. Bihar
4. Dr. Sharad K umar Jha , Son of not known Lecturer in Home Science M.L.S.M. College, Darbhanga. Bihar
5. Dr. Kaushlendra C houdhar y , Son of not known Lecturer in Home Science M.L.S.M. College, Darbhanga
6. Dr. Satya Prakash Jha , Son of not known Lecturer in Home Science M.L.S.M. College, Darbhanga Darbhanga

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ajay Behari Sinha
For the Respondent/s : Mr.Ashutosh Ranjan Pandey (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)

8 15-04-2025

Re: I.A. No. 02 of 2019

Heard I.A. No. 02 of 2019.

2. For condonation of delay of about 166 days for the



reasons stated in application read with the affidavit delay stands condoned.

3. Accordingly I.A. No. 02 of 2019 stands allowed.

Re: LPA No. 221 of 2019

The appellants - University have assailed the order of the learned Single Judge dated 18.07.2018 passed in CWJC No. 4095 of 2018. The learned Single Judge has proceeded to decide the matter in favour of the respondent – Binay Kumar Chaudhary in the light of the Hon'ble Supreme Court decision in the case of **State of Bihar & Ors. vs. Bihar Rajya M.S.E.S.K.K. Mahasangh & Ors.** reported in **(2005) 9 SCC 129** and yet another decision in CWJC No. 17670 of 2017 thereafter proceeded to direct the appellants – University to restore the petitioner the status of absorb employees with all consequential benefits.

2. Learned counsel for the appellants submitted that respondent – Binay Kumar Chaudhary was not working against the sanctioned post. It is submitted that recommended Home Science posts are three in number to the State Government and it has been approved by the State Government.

3. Respondent – Binay Kumar Chaudhary's name do not find a place within three posts of sanctioned post. Therefore,



the learned Single Judge has committed error. It is also submitted that having regard to the fact that respondent – Binay Kumar Chaudhary was not working against sanctioned post, therefore, learned Single Judge has committed error.

4. The appellant – University could not apprise this Court with reference to a relevant document to the extent that recommended three posts of Home Science by the University approved by the State Government. Thereafter, necessary financial aid has been provided by the State Government to the University. In the absence of those material information, one has to draw inference that appellant – University are relying on its own document insofar as recommendation of three sanctioned posts of Home Science.

5. The matter was adjourned from time to time at the request of the appellant in order to substantiate their stand that there were only three sanctioned posts what has been produced is only recommendation made by the University to the State Government. Thereafter, it was approved or not, to that effect valid document has not been placed on record, in other words incomplete records have been produced. The present LPA is pending consideration for the last about six years. They are not rectified in production of relevant documents read with the core



issue and also seeking permission of this Court to produce additional documents.

6. Be that as it may, respondent – Binay Kumar Chaudhary's services have been absorbed in the year 2005 thereafter, it was sought to be withdrawn in the year 2014. In the case of **Secretary, State of Karnataka and Ors. vs. Uma Devi and Ors.** reported in **(2006)4 SCC 1**, one of the issues is that once ad-hoc employees/daily wagers his/her services is regularised, in that event the same cannot be reopened. On this issue respondent – Binay Kumar Chaudhary has made out a case. It is necessary to reproduce Para 53 of the **Secretary, State of Karnataka and Ors. vs. Uma Devi and Ors.** reported in **(2006)4 SCC 1** 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.”

In the light of these facts and circumstances appellants have not made out a case so as to interfere with the learned



Single Judge Order Dated 18.07.2018.

8. Learned counsel for the appellants have also not apprised as to how the cited decision by the learned Single Judge has no application to the facts of their case in hand.

9. Accordingly, the present LPA No. 221 of 2019 stands dismissed. Pending I.A.(s), if any, stands disposed of.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Ankit/Sushma/-

U			
---	--	--	--

