

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6357 of 2019

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Kusheshwar Sah Son of Late Chinta Sah Resident of Village- Bangaon, P.S.-
Bangaon, District- Saharsa.

... .. Petitioner/s

Versus

1. The B.N. Mandal University Laloo Nagar, Madhepura through its Registrar.
2. The Vice Chancellor B.N. Mandal University, Laloo Nagar Madhepura.
3. The Registrar B.N. Mandal University, Laloo Nagar Madhepura.
4. The Principal M.L.T. College, Saharsa.
5. The State of Bihar Through the Principal Secretary, Department of Human Resources Development, govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Jha
For the State	:	Mr. Subhash Chandra Mishra, SC-16
For the University	:	Mr. Ritesh Kumar

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL JUDGMENT

25-11-2025

Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the B.N. Mandal
University.

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

*(i) For setting aside the order of the respondent B.N.
Mandal University, Madhepura, vide Memo
No.369/17 dated 07.04.2017 issued under the signa-
ture of its Registrar whereby claim of the petitioner
for regularization of services as Class-IV employee
has been rejected.*

*(ii) For an appropriate direction to the Respondent
University to regularize the services of the petitioner
as a Class-IV employee of Saharsa College (now,*



M.L.T. College, Saharsa) in the prescribed scale of pay, giving effect to the Memo No.86/96 dated 04.09.1996, issued under the signature of the Registrar, B.N. Mandal University, Madhepura.

(iii) For payment of due salary to the petitioner since March 1997 onwards up to date with necessary allowance etc. for his continuous services rendered on Class-IV post in MLT College, Saharsa.

(iv) For any other relief(s) for which the petitioner is found entitled in the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the petitioner was appointed as a Night Guard/Peon on 15.09.1985 on a daily-wage basis by the then Principal of M.L.T. College, Saharsa (formerly Saharsa College, Saharsa), under L.N. Mithila University, Darbhanga. At the time of his appointment, the petitioner possessed educational qualification up to Class VIII only. He began discharging duties as a Class-IV employee from the date of his engagement.

4. It is further submitted that the Additional Commissioner-cum-Special Secretary, Department of Human Resources Development, Government of Bihar, vide Letter No. 894 dated 11.07.1989 (Annexure-1), directed all Vice-Chancellors of Bihar's universities to prepare and forward a list of non-teaching employees working beyond sanctioned strength for purposes of



regularization. Pursuant to this direction, the Principal of Saharsa College, vide letter dated 21.12.1989 (Annexure-2) addressed to the Registrar, L.N. Mithila University, forwarded the petitioner's name, indicating that he had been working in the College since 15.09.1985 at Rs.300 on monthly basis.

5. Learned counsel next submits that the petitioner was paid daily wages as fixed by L.N. Mithila University for Class-III and Class-IV employees, in accordance with Memo No. 12328-401-C dated 21.12.1990.

6. After the bifurcation of universities in 1992, Saharsa College (now M.L.T. College), being a constituent unit of L.N. Mithila University, came under the jurisdiction of B.N. Mandal University, Madhepura. The petitioner continued to discharge duties as a daily-wage Class-IV employee, and recommendations for approval of his appointment along with others were approved by the University and due communication through the Deputy Registrar, B.N. Mandal University, vide Memo No. 3551-58 dated 30.07.1992 was issued to the Principal, Saharsa College, Saharsa by permitting them to continue in their position as daily wages basis, and thereafter the Registrar, B.N. Mandal University, vide letter dated 19.07.1994 and 06.08.1994, sought the details of such employees, to which consequently, the Princi-



pal of Saharsa College, responded vide letter dated 20.12.1995, by forwarding a list of four Class-III and seven Class-IV employees working on daily wages prior to 10.05.1986, along with recommendations for their payment and absorption. Based on these recommendations, the petitioner's services were regularized as Peon by the University vide Memo No. G/S-7575-86/96 dated 04.09.1996 (Annexure-6), issued under the signature of the Registrar, B.N. Mandal University. The petitioner was accordingly directed to submit his joining, which was duly complied by submitting joining before the Principal on 04.09.1996 (Annexure-7).

7. It has further been argued that respondent no. 3, vide Letter No. 112 dated 18.10.1996, wrote to the Principal of the College to make payment of salary to the petitioner and other employees whose services had been regularized vide letter dated 04.09.1996, as the salaries had been withheld in view of the oral order of the Vice-Chancellor, who subsequently reviewed his earlier decision and directed for release of their salaries.

8. It is further submitted that the issues of regularization of services of the petitioner along with others were placed for consideration and in view of the decision of the University Syndicate dated 13.09.2003 in anticipation of approval by the State Government in terms of Government Order No. 1820 dated



17.11.1998 issued by the Department of Human Resources Development, Government of Bihar. Consequently, the University confirmed the services of the petitioner by issuing notification bearing Memo No. 1050/2003 dated 21.10.2003 (Annexure-9).

9. It is further submitted that the petitioner had been continuously working since the date of his initial appointment but without following principles of natural justice or any procedure known to law, vide order as contained in A/c-63/07 dated 24.03.2007, by which the services of the petitioner and seven similarly situated persons were terminated treating them to be daily wage employee, while as a matter of fact the petitioner no more remained a daily wager after confirmation of his services while other similarly situated persons, who were also working in the same capacity their services were regularized (vide Annexure-13 & 14). He further submits that despite order of termination having been issued on paper, the petitioner continued to serve with the college till date and this Court *vide* order dated 17.10.2025 passed in this case, ordered the following:-

2. Learned counsel for the petitioner, to substantiate the fact that the petitioner had been serving Saharsa College (now M.L.T. College, Saharsa) from 2007 till 2017, and for unexplained reasons his case for regularization has not been considered. He has brought on record two office orders



contained in letters dated 07.05.2007 and 06.09.2017. These documents show that the petitioner had regularly been discharging duties in the said college on the order of the Principal.

3. Let the University verify these two documents, and if it is found that the letters were issued by the Principal of the College, and similarly situated persons whose services were terminated in 2007 have been regularized, and the petitioner's case falls within the same parameters, then necessary orders shall be passed by the University within four weeks, and the same shall be brought on record for further consideration.

10. Pursuant to this order, the University filed a fourth supplementary counter affidavit which states that a three-member committee was constituted vide Memo No. [GS(LC)-02-2896/19]-1424/25 dated 16.10.2025 (Annexure-A of 4th Supplementary Counter Affidavit) to verify the authenticity of the two letters dated 07.05.2007 and 06.09.2017, issued by the Principal of the concerned college. The Principal, M.L.T. College, Saharsa, vide letter No. G.S. 209/25 dated 10.11.2025, has confirmed the genuineness of the letter dated 07.05.2007 and 06.09.2017. The Committee, in its report dated 15.11.2025 (Annexure-B of 4th Supplementary Counter Affidavit), concluded that both letters were indeed issued by the college. However, it has also been ob-



served that the petitioner had been terminated in 2007 and was never reinstated nor paid any remuneration thereafter, and that the two letters had been issued at the College level without approval from the University.

11. It is submitted by the learned counsel for the University that based on the above-mentioned letter sent by the Principal of the concerned college, the three-member committee submitted its report on 15.11.2025, before the office bearers of the University, wherein the Committee came to the conclusion that both the letters, being letter dated 07.05.2007 and 08.09.2017, were issued by the Principal, MLT College and the then In-charge Librarian of the College, respectively, and the same have been found to be correct. However, the petitioner is said to have been terminated from service in the year 2007 and thereafter, he has neither been brought back in service by the University, nor has been paid any remuneration after that. The report further mentioned that the two letters have been issued by the then officials, without approval from the University, at their own level.

12. To this, the Learned counsel for the petitioner further submits by taking this Court to the Memo No.1481/15 dated 24.05.2015 (Annexure-13 of the writ application) by which the services of this petitioner along with seven persons were termi-



nated, out of which, the services of one Ram Narayan Thakur was regularized in terms of the letter of State Government as contained in Memo No.14/13-269/13-191 dated 06.02.2015 of the Higher Education Department, Government of Bihar and consideration of regularization was initiated and made in light of the order passed by the coordinate Bench in the case of Ram Narayan Thakur (CWJC No.3197 of 1997) vide order dated 04.08.2011 and the relevant portion of the order so passed in that case is extracted hereinbelow:-

“This Court would also make it clear that the Government itself having withdrawn the circular dated 10.05.1991, as with regard to the regularization of services of all the persons appointed only prior to 10.05.1986 can not discriminate the petitioner on this issue, inasmuch as, now the persons appointed before 10.05.1986 or after 10.05.1986 stands on the same footing. To that extent the stand taken by the University in its order dated 21.10.2003, regularizing the services of the petitioner seems to be more fair and reasonable, inasmuch as, all the 11 persons said to be working on Class-III and Class-IV post were sought to be regularized. It however, goes without saying that any order of regularization of service of any person in the University has to be against the sanctioned post and therefore, a decision will have to be taken by the State Government against the sanctioned post.

Considering all these aspects, this Court would direct the Director Higher Education to take a final decision as with regard to issues involved in this writ application namely creation and sanction of class-IV post in the hostel of Saharsa College, Sa-



harsa, for regularizing the services of the petitioner against such post. It is expected that the Director Higher Education having obtained the order of competent authority will communicate the decision of the Government to the University as also to the petitioner within a period of six months. In order to expedite the matter, this Court would give liberty to the petitioner to file a self contained representation along with connected documents and a copy of this order but also any other evidence of which he would like to rely for grant of relief from the Government.

Before parting with it is made clear that this Court, in view of the conflicting claims regarding continuation of services of the petitioner in the service of the College, is not inclined to give any finding nor would expect the Government to be governed by this aspect. Such trivial issue, in this writ petition which was filed in the year 1997 and there was an interim order of status quo whereafter it is being said now by the University that the petitioner has been remove from service in the year 2007 is in fact fit to be ignored. In that view of the matter, either continuance or removal of the petitioner throughout the pendency of the writ application will not prejudice him from the main relief for which directions have been given above.

It however goes without saying that if the petitioner has been continuing in service as is being claimed by his counsel in terms of the interim order passed by this Court has not held his continuation to be bad in law.

With the aforementioned observations and direction, this application is disposed of.

13. It is further submitted that the services of the other four members, having again been terminated, whose names, along with that of the petitioner, appeared at serial numbers 2, 3,



and 4 in the regularization order issued by the B.N. Mandal University, vide Memo No. G/S-7575-86/96 dated 04.09.1996 (Annexure-6 at page 25), have subsequently, been taken back in service with the intervention of the Hon'ble Court's order, while the direction issued by the coordinate Bench of this Hon'ble Court in CWJC No.8039 of 2012 in the case of the petitioner and consequently MJC No.4907 of 2013 for its compliance, the authority of the University in a most casual and arbitrary manner to show compliance, rejected the claim of the petitioner by passing the impugned order dated 09.07.2017, which is the subject matter of challenge, in the present writ petition.

14. Learned counsel for the petitioner further submits by taking this Court to Annexure-17 and 18 of the supplementary affidavit, learned counsel for the petitioner submits that the petitioner had continued to discharge the duties of the post as Peon since the date of his initial appointment and there has not been any break in service, which finds support from the enquiry report submitted by the Committee in this behalf, which forms part of the 4th supplementary counter affidavit, and as also the documents appended with the supplementary affidavit of the petitioner, which has not been disputed, therefore, appropriate directions have been sought to grant similar relief to this petitioner as



been granted to the similarly situated persons whose services were also terminated vide office order as contained in Memo No.A6/63/2007 dated 24.03.2007, appended with the writ application as Annexure-10, and they have been taken back in service by regularizing their services in terms of the orders passed in the cases vide order dated 04.08.2011 passed in CWJC No.3197 of 1997 and order dated 01.08.2011 passed in CWJC No.4838 of 1998 and its consequential MJC No. 6477 of 2012 disposed of vide order dated 22.10.2014 with the issuance of Annexure-13 &14 appended with the writ application.

15. From the judgment and order dated 04.08.2011 passed in CWJC No. 3197 of 1997, it is quite evident that the Co-ordinate Bench by referring to the Government Circular dated 10.05.1991 submits that the Government has taken a conscious decision that the persons who have been appointed before 10.05.1986 or after 10.05.1986 stands on the same footing and to that extent, the stand taken by the University in its order dated 21.10.2003 regularizing the services of the petitioner seems to be more fair and reasonable inasmuch as all the eleven persons said to be working on Class-III and Class-IV posts were sought to be regularized and considering the same the Co-ordinate Bench had directed the Director, Higher Education to take a final decision



with regard to the issues involved in the said writ petition, namely, creation and sanction of Class-IV post for regularizing the services of the petitioner against such post and pursuant to the said direction, the regularization of Ram Narayan Thakur who is similarly situated to this petitioner was regularized by passing appropriate order in that respect.

16. On the other hand, learned counsel for the respondent University does not dispute the factual position that the persons whose services were terminated along with this petitioner have been regularized and the duties discharged by the petitioner till date has also not been controverted, but with the caveat that the Principal has engaged this petitioner and the University is not concerned about the same.

17. Considering the fact that the petitioner had continued to discharge the duties of Peon since 1985 and that his services were also regularized by the University, and the orders to this effect dated 08.06.1996 and 04.09.1996 have been passed by the University itself in terms of the Government decision, which is brought on record by Annexure-6 to the writ application, there was no reason for the University to terminate the services of the petitioner without following the principles of natural justice. Since it is an admitted fact that this petitioner continued to dis-



charge his duties in the interest of the College, which is controlled by the University, as such, there is no plausible reason to deny the continuance of the petitioner, which would only prejudice the rights of this petitioner, while the other requirements of similar treatment is very much present in the case of the petitioner, which finds support from the enquiry report submitted by the University pursuant to the order passed by this Court, and accordingly, there are sufficient material for consideration of the case of the petitioner in light of the observations of the Hon'ble Supreme Court in *Secretary, State of Karnataka & Ors. v. Umadevi (3) & Ors.*, **AIR 2006 SC 1806**, extracted below:

26. It is apt to observe that the Constitution Bench in the case of Secretary, State of Karnataka and Others (supra), had directed the Union of India, the State Government and their instrumentalities to take steps to regularize 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 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 the date of the judgment and further clarified that regularization, if any already made, but not subjudice, need not be reopened based on this judgment.

27. Thus, in view of the mandate of the Constitution Bench, it was incumbent upon the respondent authorities to consider the claim of the petitioners for their regularization, who have been uninterruptedly discharging their duties to their respective post(s) in the Colleges for more than several decades.

18. It is submitted by taking cue from the dictum of Hon'ble Apex Court rendered in the aforementioned Constitution Bench judgment, the case of the petitioner deserves to be considered for regularization in view of the fact that admittedly this petitioner had worked as against daily wager for more than 10 years without any protection of order passed by any Court or tribunal, which finds support from the letter of confirmation having been made by the University, which is appended with the Memo No.1050/2003 dated 21.10.2003 (Annexure-9).

19. From the materials available on record, it is quite evident that the State Government had already taken steps for regularization of the petitioner and other similarly situated per-



sons engaged beyond the sanctioned strength and necessary steps for absorption was already underway in the year 1996 itself, therefore, it was expected in law that all endeavours should have been made by the State Government, as much as by the University to grant approval in similar terms as has been done in the case of others ignoring the trivial issues keeping in row the fact that the petitioner has also worked and continued along with the others, and his services were also recognized by the University all through by directing payment of salary and making confirmation of his services in the year 1996 at par with others, who have subsequently been taken back in service after termination of their services. Accordingly, the impugned order of termination dated 07.04.2017 issued by the University, being contrary to its earlier decision by which the services of the petitioner was confirmed by the University and the report of the Committee constituted by the University dated 15.11.2025 having found his continuance till date on the strength of those two letters issued by the college to be correct, though without approval of the University and as also for the reasons indicated in the foregoing paragraphs, is accordingly set aside.

20. Consequently, in view of the foregoing discussions and in the interest of justice, this Court directs Respondent No.3



and Respondent No.5/ to take a final decision with regard to the regularization of the petitioner in the same and similar terms as has been done in the case of similarly situated persons, by carrying out the formalities as required in law within eight weeks from the date of receipt/production of a copy of this order. Upon adjudication of the petitioner’s claim, the benefits that were granted to the other similarly situated persons, the same shall also be extended to this petitioner.

21. In the result, this writ application stands allowed with the aforesaid observations and directions.

(Ajit Kumar, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.12.2025
Transmission Date	NA

