

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7362 of 2017

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Bimal Bihari Jha son of Lat Bauwan Jha resident of village - Kayasth Kabai,
P.S. - Manigachhi, District - Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Education, Government of Bihar,
Patna.
3. The Vice-Chancellor, L.N.M. University, Darbhanga.
4. The Registrar, L.N.M. University, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Hemant Kumar Jha
For the State	:	Mr. Vikash Jha, AC to Ex-GA 9
For the University	:	Mr. Bindhyachal Rai

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 5 07-10-2025 1. The present writ application has been filed by the petitioner for quashing letter no. VCR-1685/07, dated 25.11.2007, issued by the respondent no. 4-the Registrar, Lalit Narayan Mithila University, Darbhanga, whereby the claim of the petitioner for regularization of his service as Assistant (Routine Clerk) has been rejected as not tenable. The petitioner has further prayed for a direction to the respondents to regularize his services with effect from the date of his initial appointment on daily wages, along with all consequential service benefits.
2. The brief facts of the case is that the petitioner was appointed as a Routine Clerk on daily wages in Lalit



Narayan Mithila University, Darbhanga (in short, 'the University'), on 25.02.1985. After his appointment, the petitioner started discharging his duties and continued to discharge his duties till 24.11.2007, when his services, along with other employees engaged on daily wages, were terminated following rejection of their claims for regularization in the service.

3. Learned Counsel for the petitioner argued that in the year 1997, the University issued a memorandum and published an advertisement inviting applications from existing daily wage employees working against sanctioned posts for filling up the posts of Assistant. In response, the petitioner applied for the post and was called for and appeared in the interview. The name of the petitioner was included in the panel of 274 candidates recommended by the Selection Committee on 07.05.1998.
4. It has further been argued that pursuant to direction issued by this Court in a series of writ proceedings, the University prepared a fresh panel of 347 employees and forwarded the same to the State Government for its approval. Another revised panel of 196 employees was also submitted by the University during the pendency of



the aforesaid panel, which was approved by the State Government.

5. Learned Counsel next submits that despite being appointed much earlier than several employees whose services were subsequently regularized, the petitioner was omitted from the list without any valid or justifiable reason.
6. It has been submitted that the Registrar of the University, by the impugned order, dated 25.11.2007, rejected the claim of the petitioner for his regularization in a most casual, mechanical and stereotyped manner, merely citing the judgment of the Hon'ble Supreme Court, in the case of **Secretary, State of Karnataka and Others v. Uma Devi (3) and Others**, reported in **(2006) 4 SCC 1**, without examining the relevant factual and legal aspects of the petitioner's case.
7. The similarly situated employees, whose rejection orders were challenged before this Court, were granted relief, with direction issued to the respondents to reconsider their cases for regularization and as such, the petitioner is also entitled to the same relief and parity of treatment.
8. On the other hand, learned Counsel for the University



argued that the present writ application is misconceived, belated, and an afterthought, as the petitioner seeks to challenge an order passed as far back as in the year 2007, after an inordinate delay of nearly ten years. On this ground alone, the writ application deserves dismissal on the ground of being stale and barred by delay and laches on the part of the petitioner.

9. Learned Counsel further argued that the petitioner was appointed on daily wages, purely as a temporary measure, vide University Memo No. CR-54-73/85, dated 25.02.1985. The appointment of the petitioner was not against any sanctioned or vacant post, and consequently, he was not paid any regular remuneration. The appointment was made without following due procedure inasmuch as no advertisement was issued and no selection process, such as written test or interview, was conducted. Such an appointment, being illegal and *de hors* the rules, cannot confer any legal right to seek regularization.
10. It has further been submitted that those employees, whose services were regularized, were working against sanctioned and vacant posts and were duly recommended by the Selection Committee after following prescribed



procedures. Since the engagement of the petitioner was against an unsanctioned post, his case cannot be compared with those who were validly regularized.

11.He further submits that the recommended list of 274 candidates is not produced by the petitioner, as such it is not confirmed as to whether the name of the petitioner was forwarded by the University to the State Government for approval.

12.I have heard learned Counsel for the parties concerned and have gone through the materials available on record.

13.It appears that the petitioner was not appointed on daily wages on a sanctioned and vacant post after following the due process of selection. The respondents have clarified that the appointment of the petitioner was not recognized as valid and no remuneration was paid to him.

14.The law, in this regard, is well-settled that regularization can be considered only when an employee is appointed against a sanctioned and vacant post in accordance with the prescribed rules and procedures. In absence of such compliance, no legal right to claim regularization can accrue. The impugned order, rejecting the claim of the petitioner for his regularization, was passed on



25.11.2007, while the present writ petition was filed on 15.05.2017, i.e. after more than ten years of passing the impugned order. The petitioner has not furnished any satisfactory explanation for such an inordinate delay in approaching this Court.

15.The Court cannot entertain such stale claims where the delay is unexplained, as it undermines the administrative efficacy and legal certainty.

16.So far as the contention of the petitioner that similarly situated employees were regularized is concerned, from the record and stand of the University, it is clear that those employees were appointed against sanctioned and vacant posts following due process and procedure of selection. The case of the petitioner is distinguishable on the ground that his engagement was not made on sanctioned and vacant post.

17.In the result, I do not find any merit in this writ application.

18. This writ petition is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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