

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15257 of 2019

Manoj Kumar @ Manoj Kumar Saha S/o-Late prof, Jibachh Saha, Resident of
Bara Bazar, Gadiyani, Ward, No.5, Madhubani Town, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. The Director, Higher Secondary, Education Department, Bihar, Patna
3. The Chancellor, Universities, of Bihar, Patna
4. The Vice-Chancellor, L.N. Mithila University, Darbhanga.
5. The Registrar, L.N.Mithila University, Darbhanga.
6. The Principal, R.K. College, Madhubani.
7. Mr. Bishwesh Kumar, S/o-not Known, Posted as Clerk (In Charge Accountant), R.K. College, Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, In-person
For the State	:	Smt.Binita Singh (SC-28)
For the University	:	Ms. Alka Verma, Adv
For Respondent No. 6	:	Mr. Nadim Seraj, Adv
For Respondent No. 7	:	Mr. Shahbaj Alam, Adv
For Respondent No. 3	:	Mr. Janardan Pd. Singh, Sr. Adv
		Mr. Rajiv Ranjan Kumar Pandey, Adv

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

14 15-04-2025 1. Heard petitioner (in-person), learned AC to SC-28
and the learned counsel appearing on behalf of respondent Nos. 3,
6 and 7 and the learned counsel appearing on behalf of the
University through virtual mode.

2. The petitioner (in-person) submits that he was
appointed on compassionate ground on 18-7-1986 on the post of
routine clerk (Class-III) in R.K. College, Madhubani and joined
the said college on 22-7-1986. It is next submitted that name of



the petitioner is Manoj Kumar, but title of his father is Saha, hence the appointing authority recorded the title of his father after his name, though he had sought appointment on compassionate ground as Manoj Kumar. It is further submitted that Bishwesh Kumar (Respondent No. 7) was appointed on the post of routine clerk on 7-1-1994, who joined on 8-1-1994, as such, was much junior to the petitioner, based on the date of appointment. It is also submitted that petitioner is highly qualified, as such the Principal of the college asked him to take classes, hence the petitioner took classes for 22 years and the Principal also issued certificate of appreciation recording that petitioner is hardworking and intelligent. It is next submitted that one Arun Jha was posted as in-charge accountant, who retired on 31-10-2012, hence the respondent No. 7 was posted on the post of accountant as in-charge, though he was junior to the petitioner.

3. It is further submitted that the petitioner represented before the respondent authorities against the posting of respondent No. 7 as in-charge, accountant on the ground that he was junior to him, further one Vikash Kumar also represented against the posting of respondent No. 7 on the ground that he was junior to him. Based on the complaint made against the



respondent No. 7, the respondent No. 5 issued notification dated 10-9-2013 (Annexure-1) communicating the decision taken by the promotion committee to hand over the charge of head clerk and accountant after retirement from the said post to the senior most staff in pursuance of recommendation of the Principal.

4. At this stage, the learned counsel appearing on behalf of the College submits that from perusal of the notification dated 10-9-2013, it would manifest that any appointment after retirement of the head clerk and accountant was to be made in pursuance of the recommendation of the Principal.

5. The petitioner in person next submits that petitioner was posted as in-charge accountant, but again respondent No. 7 was made in-charge accountant vide office order dated 8-5-2019 (Annexure-5) issued by the respondent No. 6. It is submitted that post of accountant is a higher post and can be filled by promotion and in absence of promotion, one can be deputed as in-charge.

6. The learned counsel appearing on behalf of the University submits that a counter-affidavit has been filed on behalf of the University wherein it has been specifically pleaded that a committee was constituted by the University *vide* letter



dated 12-8-2017 to enquire into the allegations levelled against the petitioner, the Committee submitted its report dated 12-8-2018 (Annexure-A). The Committee reported that petitioner obtained his B.Sc. and M.Sc. degree while in service without seeking prior permission and the petitioner was not able to produce any proof that he did his B.Sc. and M.Sc. after seeking permission, further during the course of inquiry, it was also found that petitioner while working regularly was marking his attendance as a regular student of M.Sc, further no objection certificate submitted by him had no official record, further the Principal of the college also reported that there were several issues relating to disciplinary grounds and financial issues against the petitioner. The report of the committee was approved by the disciplinary authority in its meeting dated 1-10-2018 (Annexure-B), further a show-cause was issued to the petitioner vide letter dated 10-1-2019. The petitioner replied, but the reply was not found satisfactory, hence respondent No. 7 was handed over charge of the in-charge accountant.

7. The learned counsel appearing on behalf of the University and the College jointly submitted that the post of accountant no doubt is a higher post, but then respondent No. 7 initially was appointed on the said post, but after petitioner and



Vikash made a complaint against the appointment of respondent No. 7 on the ground that he was junior to them, as such petitioner was made the in-charge accountant, but since some complaints were received against the petitioner which was forwarded to the University and a three-man committee was constituted which found the allegations against the petitioner to be true, including allegations regarding financial issues, as such the Principal of the college appointed respondent No. 7 as in-charge accountant in place of the petitioner.

8. The petitioner, who appears in person, rebuts the said submission of the learned counsel appearing on behalf of the University and the College and submits that no doubt in the report, it has been recorded that the petitioner had done his B.Sc. and M.Sc. while working on a regular post without seeking permission, but then the petitioner has denied the said allegations and as such the authorities never proceeded against the petitioner departmentally. It is thus submitted that if the petitioner had committed any wrong, in that event, an opportunity would have been given to him to put forth his case, but since the entire enquiry was conducted behind his back and thereafter, no further proceeding was initiated, which amply demonstrates that the allegation against the petitioner has no



legs to stand, as such it is submitted that petitioner being senior to the respondent No. 7 be posted on the post of accountant as in-charge in the college.

9. The learned counsel appearing on behalf of the College and the University rebuts the said submission of the petitioner and submits that the appointment on the post of accountant of the college was not by way of promotion, but merely because the post was vacant on account of retirement of the earlier accountant, as such the respondent No. 7 initially and thereafter petitioner was appointed, but later the Principal took a decision to appoint the respondent No. 7 on the said post by order dated 8-5-2019 (Annexure-P/5). It is further submitted that from perusal of the order dated 8-5-2019, it would manifest that the same does not in any manner indict the petitioner, rather records the name of the employees who were given different charges in the college. It is next submitted that petitioner is seeking the post of accountant as in-charge only on the ground that he is senior to the respondent No. 7, but then the nature of duty which has been assigned to the petitioner, the petitioner does not have to report to the accountant, as such no prejudice is caused to the petitioner, hence it is submitted that the writ application is misconceived.



10. The Court is in complete agreement with the submissions made by the learned counsel appearing on behalf of the University and the College, as such, finds no merit in the writ application.

11. Accordingly, the writ application is dismissed.

(Satyavrat Verma, J)

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