

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9402 of 2023

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Devendra Ray Son of Late Kapildeo Rai, Resident of Village- Singhara, P.O.-
Singhara, P.S.- Mahua, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Director, Higher Education Department, Government of Bihar, Patna.
3. The L.N. Mithila University, Kameshwar Nagar, Darbhanga through its Registrar.
4. The Vice- Chancellor, L.N. Mithila University, Kameshwar Nagar, Darbhanga.
5. The Registrar, L.N. Mithila University, Kameshwar Nagar, Darbhanga.
6. The Chancellor, Universities of Bihar, Raj Bhawan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Mishra
For the Respondent/s	:	Mr. Prabhakar Jha (Gp 27)
		Mr. Mukund Mohan Jha, AC to GP-27
		Mr. Siddhartha Prasad
		Mr. Bindhyachal Rai

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

6 31-01-2026 Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner has approached this Court seeking quashing of the Memo No.594 dated 20.02.2023, issued under the signature of respondent no.2, whereby the appointment of the petitioner along with some others has been held illegal. The petitioner also sought quashing of the consequential order contained in Memo No.SC/59/23 dated 22.02.2023 issued by the respondent no.5, whereby the payment of pension and other



benefits have been stopped in view of the afore-noted letters.

3. Brief facts as required for adjudication of the matter are as follows:-

4. Admittedly, the petitioner was appointed in accordance with law on 14.10.1980 by a decision of the Managing Committee of GMRD College, Mohanpur (Samastipur), whereafter he joined his post and started discharging his duties. He was transferred from GMRD College to BRB College, Samastipur against a vacant post on 04.09.1996. Subsequently, the services of the petitioner were regularized by the University vide its notification dated 23.01.2016. After serving for more than 30 years, the petitioner superannuated from the post of Lecturer in the year 2019 and was drawing regular pension. However, all of a sudden, after his retirement, respondent no. 2 issued the impugned order contained in Memo No. 594 dated 20.02.2023, whereby it was stated that the appointment of the petitioner, along with 16 other persons, was not made against vacant sanctioned posts by following due process of law, and that their cases were not in conformity with paragraph 44 of the Constitution Bench judgment of the Hon'ble Supreme Court in *Secretary, State of Karnataka & Ors. v. Uma Devi & Ors.* [2006 (4) SCC 1].

5. The afore-noted impugned order was also put to



question by some of the identically situated persons in CWJC No.9131 of 2022 along with another analogous case. Both the writ petitions were heard by the Coordinate Bench of this court and finally the impugned order came to be set aside vide order dated 12.01.2024, so far as it relates to the petitioners of the said cases.

6. A counter affidavit on behalf of the respondents no.1 and 2 has been filed but this Court is appalled to see that there is no discussion with respect to the order passed by this Court dated 12.01.2024 in CWJC No.9131 of 2022, whereby the impugned order dated 20.02.2023 has already been set aside with respect to other identically situated persons. The counter affidavit has been filed in support of the impugned order contained in Memo No.594 dated 20.02.2023 on the identical grounds that the very appointment of the petitioner was not made against the sanctioned post and without following the due selection process and thus his regularization as well as his appointment was bad. It has further been stated in para-19 that the order passed in CWJC No.9131 of 2022 and analogous case is not applicable in the present writ application. However, the respondent(s) has not clarified as to why the same is not applicable when the case of the petitioner is exactly similar to those in whose favour the order has been passed and the impugned order has been set aside.



7. This Court has also been apprised that the Committee consisting of five senior officers, headed by the Chief Secretary of the State of Bihar, has also taken a decision to ensure the compliance of the order of this Court passed in CWJC No.9131 of 2022 along with another analogous case and the consequential benefits have been accorded accordingly to the petitioners of the said writ petition(s).

8. Having considered the submissions advanced by the respective parties and taking note of the fact that the impugned order contained in Memo No.594 dated 20.02.2023 issued under the signature of the respondent no.3 as well as the consequential orders have already been set aside with respect to the identically situated persons, there is no need for further adjudication of the matter. No such order would sustain against an employee who had already been superannuated before the impugned order is passed. Accordingly, the impugned order as contained in Memo No.594 dated 20.02.2023 passed by the respondent no.2 as well as Memo No.SC/59/23 dated 22.02.2023 issued by the respondent no.5, are hereby set aside.

9. The respondents are directed to extend all the consequential benefits, including the arrears of pension to the petitioner forthwith, in any case within eight weeks from the date



of receipt/production of a copy of this order.

10. In the result, the instant writ application stands
allowed.

(Ajit Kumar, J)

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