

(2019) 08 PAT CK 0053

In the Patna High Court

Case No : Letters Patent Appeal No. 949 Of 2016 In Civil Writ Jurisdiction Case
No. 18297 Of 2012

Ashok Kumar

APPELLANT

Vs

State Of Bihar Through The Chief Secretary And Ors

RESPONDENT

Date of Decision : 27-08-2019

Acts Referred:

Citation : (2019) 08 PAT CK 0053

Hon'ble Judges : Amreshwar Pratap Sahi, CJ;Anjana Mishra, J

Bench : Division Bench

Advocate : Rabindra Prasad Singh

Final Decision : Allowed

Judgement

1. The appeal questions the correctness of the judgement of the learned Single Judge dated 17th of June, 2013 whereby the appellant's writ petition along with one Arun Kumar was dismissed. The present appeal has been filed by only Ashok Kumar and, therefore, it is confined only to the relief as prayed for by the present appellant.

2. The petition preferred by the appellant prays for treating his qualification of degree of Sahitya Alankar from Deoghar Vidyapith equivalent to Graduation whereby the appellant would be entitled to a promotional pay-scale. The petition was only for issuance of a mandamus, but instead of sending the matter to the concerned authority for its appreciation in the light of the Rules applicable, the learned Single Judge proceeded to decide the writ petition primarily on the ground that the degree of Sahitya Alankar as possessed by the appellant cannot be recognized as equivalent for the reasons stated in the impugned judgement.

3. Learned counsel for the appellant has invited the attention of the Court to the Division Bench judgement in the case of Sanjay Kumar & Ors. Vs. State of Bihar & Ors, reported in 2019 (4) B.L.J. 789 to urge that the said degree has been treated to be equivalent on the terms and conditions as indicated therein.

4. Keeping in view the subsequent decision of the State Government through its resolution dated 8.4.2016, as clarified vide Memo. dated 24th of August, 2017 by the State Government.

5. The matter still engaged the attention of the Court before the Full Bench arising out of the same subject-matter and the Full Bench answered the issues raised treating the said qualification to be equivalent in the light of the findings as arrived at on the basis of the aforesaid two resolutions of the State Government.

6. Thus, the consequential action of the State Government in its proceeding to recognize the degree to a certain extent was taken note of and the benefit was extended to the concerned claimants. The Full Bench in the case of Ramashankar Patel Vs. The State of Bihar & Ors. (C.W.J.C. No.11255 of 2016) decided on 22.8.2019, in paragraph 46 thereof has held as under:

"46. In terms of the notification of the General Administration Department as contained in Memo No. 541 dated 11th January, 1991 the Sahityaalankar certificate had got equivalence to the graduation at least prior to 25.08.2008, therefore, those writ petitioners who obtained their Sahityalankar degree from Hindi Vidyapeeth, Deoghar prior to 25.08.2008 would come within the framework of the notification dated 11th January, 1991 and shall be entitled for consideration for promotion to B.A. (Trained) Scale. By virtue of the notification dated 08.04.2016, the promotions granted between 07.05.2012 and 08.04.2016 have been saved. Further by notification dated 17.04.2017 now even the degree obtained prior to 07.05.2012 and the appointment/promotion granted between 07.05.2012 and 08.04.2016 have been saved. In these circumstances the petitioners no. 4, 7 and 15 shall also be entitled for the benefits because in both cases i.e. notification dated 08.04.2016 and notification dated 17.04.2017 the State respondents cannot contend that while the promotions granted to the persons junior to the petitioners in the gradation list between 07.05.2012 and 08.04.2016 shall be saved, the petitioners would not be entitled for the same. This would be discriminatory because once equivalence granted to Sahityaalankar degree obtained from Hindi Vidyapeeth, Deoghar prior to 07.05.2012 is saved it will save the petitioners who have their Sahityaalankar degree obtained prior to 07.05.2012. They would be entitled to maintain their position in the seniority list and in case juniors to them have been granted promotion in terms of B.A. (Trained) Scale, these petitioners shall also be entitled for the same from the date their juniors have received the benefit."

7. Learned counsel for the State could not dispute the aforesaid position on the basis of the facts in the present case as well. Consequently, keeping in view the ratio of the decision in the case of Ramashankar Patel (supra), we allow this appeal and set aside the impugned judgement dated 17.6.2013 with a direction to the concerned authority to consider the request of the appellant for grant of the promotional pay-scale to which the appellant may be entitled treating his degree of Sahitya Alankar to be an equivalent and valid degree for the same

purpose in the light of what has been stated above, within three months from the date of production/receipt of a certified copy of this order.

8. The appellant shall also be entitled to future consequential benefits.