
(2000) 02 PAT CK 0136
In the Patna High Court
Case No : C.W.J.C. No. 755 of 1999

Bimlendra Prasad Singh

APPELLANT

Vs

The Chancellor of Universities and Others

RESPONDENT

Date of Decision : 16-02-2000

Acts Referred:

Citation : (2000) 4 PLJR 308

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : B.N.P. Singh and J.P. Singh, for the Appellant; Azfar Hassan for the University (L.N.M.U.), Mr. Shivendra Kishore for the Chancellor of Universities and Mr. Gyanand Roy, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—The case relates to appointment to the post of Principal, by stop gap arrangement (Professor-in-Charge) in V.S.J. Rajnagar, a constituent College under the Respondent L.N. Mithila University. The petitioner claims to be senior to 5th Respondent, Bal Nath Jha, who is at present holding the charge of the post as "Professor-in-Charge" of the College.

2. It appears that the petitioner was made Professor-in-Charge of the College in 1984 which the 5th Respondent challenged in C.W.J.C. No. 2505/84, which was dismissed as withdrawn on 22nd May, 1984.

3. The 5th Respondent was subsequently made Professor-in-Charge in 1986, but the same was modified and petitioner was made Professor-in-Charge on 27th June, 1996. This time, another C.W.J.C. No. 6392 of 1996 was preferred by 5th Respondent, which was disposed of on 7th October 96 and the matter was remitted to the Vice Chancellor of the University for determination as to who amongst them is senior.

4. The Vice Chancellor held the 5th Respondent senior to petitioner; vide order dated 28th November, 1997, which was challenged by petitioner in C.W.J.C. No. 11637/97, wherein the petitioner was asked to move before the Chancellor vide

order dated 29th April '98. The Chancellor having rejected the claim of petitioner, vide order dated 24th December, 1998, the same is under challenge in the present writ petition.

5. From the facts aforesaid, it will be evident that for the last number of years, the University has not taken steps to fill up the post of Principal, V S.J. College, Rajnagar and continuing with ad hoc arrangement by allowing a Professor to hold the charge of the post, commonly known as Professor-in-charge.

6. It is for the said reason, one or other party is claiming seniority over other, for the purpose of holding the charge by way of interim arrangement.

7. It is not in dispute that the question of seniority is not relevant for the purpose of appointment to the post of Principal of the College, which according to rule/law, is required to be filled up by direct recruitment. Thus, even if one or other party is declared senior, no advantage can be drawn out of the same for regular appointment to the post, in question (Principal).

8. In the aforesaid background, it is unnecessary to determine the seniority between the parties, but to direct the Respondents to fill up the post of Principal of the College, on regular basis.

9. If the University has not taken steps to fill up the post of Principal of V.S.J. College, Rajnagar, it will make requisition to the Bihar State University (Constituent Colleges) Service Commission (University Service Commission for short), within six weeks from the date of receipt/production of a copy of this order. If so required, they may make requisition in respect of other similar posts of Principal of other Colleges, together, if they are lying vacant.

10. The University Service Commission in their turn is required to publish advertisement and on selection of eligible candidates are to make recommendation within six months from the date of requisition. On such recommendation, the University concerned will fill up the post of Principal, on regular basis within fifteen days thereof.

11. If requisition has already been made and advertisement has already been published by the University Service Commission, they are required to forward its recommendation within a period of six months from the date of receipt/production of a copy of this order.

12. In case the post of Principal of the V.S.J. College, Rajnagar is not filled up on regular basis within a period of nine months, the University authorities will fill up the same by transfer of a regular Principal from other college.

13. The parties are also given liberty to move this Court, if they require more time or clarification of this order.

14. The petitioner will produce a copy of this order before the Vice Chancellor of the University Service Commission, who are to ensure compliance. This writ petition stands disposed of with the aforesaid observations and directions.