
(2006) 01 PAT CK 0084
In the Patna High Court
Case No : CWJC No. 2301 of 2000

Birendra Tiwary and Another

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 27-01-2006

Acts Referred:

Citation : (2006) 1 PLJR 611

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Ganesh Pd. Singh, Sharad Kumar Sinha and Manish Kumar, Jayanandan Singh, for the Appellant; Syed Alamdar Hussain, for the Respondent

Final Decision : Dismissed

Judgement

Narayan Roy, J.—Heard counsel for the parties. This writ application is directed against the order, as contained in annexure 28 dated 17.9.1999, issued by the State Government and also against the order passed by the University authorities, as contained in annexure 29.

2. Vide order, as contained in annexure 28, the claim of the petitioners was examined at the level of the State Government and the State Government on full consideration of the matter held that the petitioners were not appointed in accordance with law by the managing committee of the erstwhile college nor their appointment was ever approved by the University. By order, as contained in annexure 29, the University authorities directed the Principal of the College to take necessary action against the petitioners in view of the order passed by the State Government, as referred to above.

3. It is submitted by learned counsel for the petitioners that the petitioners initially were appointed by the managing committee of the college in 1980 on the posts of Typist and Laboratory Assistant, respectively. Accordingly, they continued in their services and thereafter the college in question sent the necessary recommendation for approval of their appointment to the University

and the petitioners continued to work. It is further submitted that as per the staffing pattern, the petitioners were acknowledged as the employees of the college in question and since necessary recommendations were made by the Principal to the University to accord sanction, the petitioners cannot be held liable. The petitioners, thus, having legitimate expectation that their appointment would be approved by the University continued to work.

4. Counter affidavits have been filed on behalf of the State and the University.

5. From the facts stated in the counter affidavit of the State and the University, it is manifestly clear that appointment of the petitioners at no point of time was approved by the University and by the State Government, as required under the provisions of the University Act.

6. The University goes one step further to say that no proceeding book was available to show the manner under which the petitioners were appointed by the erstwhile managing committee of the college in question.

7. All appointments made by the managing committee of the college or by the college are subject to approval by the University and also by the State Government, as necessary fundings are made by the State Government.

8. No material, whatsoever, has been brought on record to satisfy the Court that the petitioners' appointments were ever approved by the University and the matter is pending before the State Government.

9. The matter, as it appears, was thoroughly examined at the State level and appointment of the petitioners was not found in accordance with law and necessary directions were issued to take action against the petitioners.

10. It is true that the petitioners continued to work for more than a decade. But it does not appear to be a case that petitioners' appointment was ever approved nor it can be said to be a case of legitimate expectation of the petitioners that since they were validly appointed, their appointment would be approved by the University authorities and the State authorities.

11. Prima facie, it appears that the University authorities were not satisfied about the appointment of the petitioners nor at the time the college in question was made constituent necessary records pertaining to appointment of the petitioners were forwarded to the State authorities to accord necessary sanction. Merely because the petitioners got their salary right from 1980 from the college in question, the same would not confer any right upon them.

12. Appointments of the petitioners, in this view of the matter, are held to be wholly without jurisdiction for want of necessary sanction by the State authorities and University authorities, as referred to above.

13. Regard being had to the facts and circumstances of the case, I do not find any merit in this application to invoke equity in favour of the petitioners nor I find any justification to interfere with the orders impugned.

14. In the result, this application is dismissed. No order as to costs.