

(1986) 08 PAT CK 0003

In the Patna High Court

Case No : Civil Writ Jurisdiction Cases No. 1756 of 1986

Dr. Madendra Thakur

APPELLANT

Vs

The State of Bihar and others
 Dr. Rup Narayan
Choudhary Vs Lalit Narain Mithila University and others

RESPONDENT

Date of Decision : 20-08-1986

Acts Referred:

Citation : (1986) PLJR 957

Hon'ble Judges : S.S. Sandhawalia, C.J;N.P. Singh, J;B.P. Sinha, J

Bench : Full Bench

Advocate : Ram Chandra Jha, Suresh Chandra Prasad Sinha, Pashupati Nath Jha, Anil Kumar and Satish Chandra Jha, for the Appellant; Tara Kant Jha and Binod Krishna Jha, for the Respondent

Judgement

S.S. Sandhawalia, C.J.—In this set of connected writ petitions the significant common question, which necessitated this reference to the Full Bench, is now rendered somewhat academic by the recent judgment of their Lordships of the Supreme Court in Vice-Chancellor, L.N. Mithila University v. Dayanand Jha (1986 P.L.J.R. 37-SC). It is therefore, wholly unnecessary to advert to the facts of any individual case. It suffices to mention that the question, whether the transfer of the Principal of a College to the post of a Reader of equivalent scale of pay would amount to reduction in the rank in the eye of law in an institution governed by the Bihar State Universities Act, 1976, came up for consideration before the Division Bench in Dr. Ramanugrah v. The Vice-Chancellor of the Magadh University and others (1986 P.L.J.R. 131). Therein it was held that the post of a Reader prescribing a similar scale of pay to that of a Principal would not be held to be its equivalent post in the legal sense. Consequently, the notification, transferring the petitioner therein, was set aside. The correctness of the aforesaid view was assiduously assailed in Dr. Thakur Kahatri Satyanarayan Singh v. Lalit Narayan Mithila University and others (Civil Writ Jurisdiction Case No. 2069 of 1985) and analogous cases before a Division Bench. Finding a modicum of plausibility in the said challenge and considering the significance of

the matter and the frequency with which the issue was likely to arise, he question was referred for an authoritative decision by a Full Bench, on the 7th October, 1985, by short order of reference.

2. Meanwhila, the Vice Chancellor of the Lalit Narayan Mithila University sought special leave to appeal against the judgment of this Court in Dr. Ramanugrah Sharma (sic) Vice Chancellor of Magadh University and others (supra). Their Lordships granted leave and held on one of the points that they had no hesitation is repelling the contention of the learned Counsel for the respondent therein that the words "any equivalent post" used in Section 10(14) of the Act cannot bear the meaning of the expression "order equivalent post", as defined in Section 2 (KA, CHH). However, on the other point, their Lordships affirmed the view of the High Court that the post of a Reader could not be regarded as an equivalent post to that of Principal in the legal sense. The appeal was consequently dismissed. It is manifest from the above that the salient question for consideration has now been adjudicated upon by their Lordships themselves and all that remains is the application of the law so declared to the individual cases herein." Any further consideration by the Full Bench is thus renderd unnecessary, We therefore, direct that all these cases will now go back for a decision on merits before the appropriate Division Bench.

Nagendra Prasad Singh, J.

I agree.

Birendra Prasad Sinha, J.

I agree.