

**(2016) 05 JH CK 0190**

**In the Jharkhand High Court**

**Case No : Writ Petition (S) No. 2023 of 2011.**

**Kalidas Tiwary - Petitioner @HASH Central University of Jharkhand and  
Another**

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**Date of Decision : 17-05-2016**

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation : (2017) 2 AIRJharR 373 : (2016) 4 JCR 196**

**Hon'ble Judges : Pramath Patnaik, J.**

**Bench : Single Bench**

**Advocate : Saurav Arun and D.K. Dubey, Advocates, for the Petitioner; Rahul Gupta and Ms. Niyati Sa, Advocates, for the University**

**Final Decision : Disposed Off**

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## **Judgement**

Pramath Patnaik, J. - In the instant writ application, the petitioner has inter alia, prayed for quashing of order dated 12.3.2011 whereby services of the petitioner has been terminated and also for direction upon the respondents to forthwith reinstate the petitioner in services with all consequential benefits.

2. The factual matrix, as delineated in the writ application, is that pursuant to the advertisement for appointment on the post of Assistant Registrar, the petitioner applied for the same and after following the due procedure of selection, he was appointed on the vacant and sanctioned post vide Appointment Letter dated 10.8.2010, pursuant thereto he submitted his joining on 7.9.2010. However, to the utter surprise, a letter dated 12.3.2011 was communicated to the petitioner, purportedly a decision taken by respondent No. 2 in the meeting of Executive Council of the University, whereby the petitioner was discharged from his services.

3. Being aggrieved by the impugned order, the petitioner, left with no alternative has approached this Court invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution of India for redressal of his grievances.

4. Heard Mr. Saurav Arun, learned counsel for the petitioner, Mr. Rahul Gupta,

learned counsel for the respondents-University.

5. Learned counsel for the petitioner, during course of argument, referring to the supplementary affidavit dated 27.8.2014 submitted that on perusal of letter dated 13.5.2013, it is apparent that the Executive Council has deliberated and recorded that the petitioner be relieved of his posting owing to his working not being conducive to the working of the University. Learned counsel for the petitioner submitted that the order being a stigmatic one, the respondents-University ought to have followed the principles of natural justice. Learned counsel further submits that out of 11 members, 7 members of the Executive Council shall form a quorum for the meeting, but, in the instant case, the quorum has not been maintained and only signature of two members of Executive Council is in the minutes of the meeting, which shows the mala fide intention of the respondents-university. Referring to proviso to Section 4(d) of the Central Universities Act, 2009, learned counsel for the petitioner submitted that the employee may be terminated by the University in accordance with the terms of the contract with the employee or if no provision is made therein on this behalf, on payment, of him by the University, of compensation equivalent to three months' remuneration in case of permanent employee and one month's remuneration in the case of other employees. In support of this case, learned counsel further referred to Statute Nos. 5, 6, 11, 25(1), (vi) and further referred to Clause (VIII) to the Central University Ordinance.

6. Referring to the supplementary affidavit dated 9.5.2016. learned counsel appearing for the petitioner at the outset submitted that the very issue has been decided by this Hon'ble Court vide judgment/order dated 19.2.2016 in W.P. (S) No. 6127 of 2013 and analogous cases and after quashing the impugned order of termination, the petitioners have been directed to be reinstated in service forthwith, it has further been submitted pursuant to the order passed by this Hon'ble Court, the petitioners were re-instated in services and their joining has been accepted and further they were paid full pay and allowances for the intervening period, as per Annexure 9 to the supplementary affidavit. Learned counsel for the petitioner submitted that the case of the petitioner is squarely covered by this judgment and case of the petitioner may be disposed of in the light of the said case.

7. As against this, Mr. Rahul Gupta, learned counsel for the respondents-University has submitted with vehemence that quorum has been maintained and so far as statute referred by the learned counsel for the petitioner is concerned, the petitioner being a probationer, is not applicable to the petitioner and hence the same do not hold much water. Learned counsel appearing for the respondents however conceded to the averments made in the supplementary affidavit.

8. Having considered the submissions advanced by learned counsel for the parties and on perusal of the judgment rendered in the case of W.P. (S) No. 6127 of 2013 and analogous cases, it would be apposite to dispose of the instant writ

petition in terms of the judgment passed in W.P. (S) No. 6127 of 2013 and analogous cases dated 19.2.2016.

9. Hence, the instant writ petition is disposed of with a direction to the respondents to reinstate the petitioner in services on his post forthwith. However, liberty is reserved with the respondents to initiate de novo-proceedings, if so legally advised, in accordance with the statute and law of the Central University and other relevant provisions of the University Act.

10. With the aforesaid observations and directions, the instant writ petition stands disposed of.