

(2018) 10 PAT CK 0045

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.18706 of 2012

Md. Dastagir Khan @APPELLANT@Hash State Of Bihar

Date of Decision : 26-10-2018

Acts Referred:

Citation : (2018) 10 PAT CK 0045

Hon'ble Judges : Anil Kumar Upadhyay, J

Bench : Single Bench

Advocate : Sanjay Kumar, Apurv Harsh, D Mukherjee, Arup Kumar Chongdar

Final Decision : Disposed off

Judgement

Heard learned counsel for the petitioner, learned counsel appearing for the State as well as learned counsel representing the respondent-University.

Learned counsel appearing for the petitioner has drawn the attention of this Court to the order passed by this Court contained in Annexure-6, whereby

several writ petitions were disposed of by a common order in the light of the judgment of the Apex Court in the case of Secretary, State of Karnataka

vs. Uma Devi (3) [(2006) 4 SCC 1]. Pursuant to the said order as contained in Annexure-6 the University has constituted a Committee and the

Committee on scrutiny of the materials have found the petitioner working on regular basis as Laboratory Incharge, in the Department of Physics in Sri

Narayan Singh College, Motihari from the date of joining on 03.07.1980.

Mr. Sanjay Kumar, learned counsel representing the petitioner has drawn attention of the Court to the Division Bench judgment in CWJC No. 4329 of

1994 dated 24.09.2010, whereby the Division Bench with regard to the same college in the case of Nawal Kishore Singh, whose name figures at Sl.

No. 1 in Annexure-7, issued direction for regularization with all consequential benefits in the light of the judgment of the Full Bench in the case of Braj

Kishore Singh & Ors. v. State of Bihar [1997(1) PLJR 509].

On behalf of the University it is admitted that the petitioner is regularly working on the post for last three decades, the only objection is that the

petitioner is working against the post which is not sanctioned. The issue was considered by the Full Bench of this Court in the case of Braj Kishore

Singh (supra) and the Full Bench considering the entire scheme of the Bihar State Universities Act held out that post falling in the staffing pattern shall

be deemed to be sanctioned post and issued direction for regularization. Following the judgment of the Full Bench, the State Government has also

formulated the scheme as contained in letter no. 1820 dated 17.11.1998.

Unfortunately, for nearly four decades the petitioner remained hanging in balance and no decision was taken for regularization of service of the

petitioner on the line of the judgment of the Full Bench in Braj Kishore Singh's case. Noticing the similar fact in Nawal Kishore Singh's case

the Division Bench issued direction (Annexure-8) for regularization of service of Nawal Kishore Singh, Lab Incharge in Chemistry Department of the

same college, the present writ application is allowed with a direction to the respondents to consider the case of this petitioner for regularization of his

service in terms of the judgment of the Full Bench, particularly in view of the litigation policy of the State Government contained in paragraph-4 (c)

and the judgment of the Full Bench in the case of Anup Kumar Paul vs. B N Mandal University [2018 (2) PLJR 929], the respondents are directed to

take appropriate decision granting the benefit of regularization to the present writ petitioner like similarly circumstanced Nawal Kishore Singh, Lab

Incharge in Chemistry Department of the same college with all consequential benefits within a maximum period of four months from the date of

receipt/production of a copy of this order.

Needless to state that the petitioner has completed 38 years of service and the Apex Court has considered the case for regularization of non-teaching

employees who continuously worked for a considerably long period in the case of Amarkant Rai vs. State of Bihar & Ors. [(2015) 8 SCC 265]. The

case of the petitioner is also required to be considered in the light of the principles laid down by the Supreme Court in the case of Amarkant Rai

(supra). With the aforesaid, the writ petition stands disposed of.