
(2010) 05 PAT CK 0006
In the Patna High Court
Case No : LPA No. 1530 of 2009

Rajendra Agricultural University and Others	APPELLANT
Vs	
Vijay Kumar and Others	RESPONDENT

Date of Decision : 13-05-2010

Acts Referred:

Citation : (2011) 1 PLJR 271

Hon'ble Judges : Dipak Misra, C.J;Mihir Kr. Jha, J

Bench : Division Bench

Judgement

1. Heard Mr. D.K. Sinha, learned Senior Counsel, alongwith Mr. Anil Upadhyaya, learned Counsel for the Appellants and Mr. Vinod Kanth, learned Senior Counsel, alongwith Mr. Mukul Sinha and Mr. Anand K. Ojha, learned Counsel for the Respondents.

2. Though this matter was listed for admission, yet on consent of learned Counsel for the parties it is finally heard.

3. In this intra-court appeal the defensibility of the order dated 28.10.2009 passed by the learned Single Judge in CWJC No. 12556 of 2009 is called in question. It is submitted by Mr. Sinha, learned Senior Counsel for the Appellants, that the learned Single Judge has fallen into grave error by directing that 50% of the vacant posts should be filled up through direct recruitment and 50% by way of promotion/absorption as provided under Clause 14.1(b) of the Statute. It could not have been so directed even on consent inasmuch as the said clause does not so provide.

4. To appreciate the aforesaid submission, it apt to reproduce Clauses 14.1(a) and 14.1(b) of the Statute in its entirety:

14.1(a). The direct recruitment to the post of Assistant Professor, Associate Professor and University Professors in the Universities and Colleges shall be on the basis of merit through all India advertisement and selections by the duly

constituted Selection Committees to be set up under the Statutes/Ordinance of the University. Such Committees should have a minimum of three experts, the head of the concerned Department and the Principals of the concerned colleges (in case of selection of college teachers).

14.1(b). Notwithstanding anything to the contrary as contained in the Statutes, it is hereby provided that the cases of Agricultural Inspector, Senior Technical Assistant, Junior Technical Assistant, Demonstrators, Research Assistant and equivalent, if any working in the service of the Rajendra Agricultural University or the College concerned, as the case may be, shall be considered for appointment/absorption/ promotion to the post of Assistant Professor-cum-Junior Scientist/ Junior Scientist-cum-Assistant Professor as per statutory provision.

5. In our considered opinion, in absence of any kind of percentage fixed, this Court could not have directed to fix a particular percentage nor could the counsel give any kind of concession in this regard.

6. Mr. Sinha, learned Senior Counsel, alongwith Mr. Upadhyaya, learned Counsel for the Appellants, fairly stated that the applications received in pursuance of the advertisement dated 25.11.2009 shall be processed but the advertisement shall be given effect to only after working out the quota. They have further stated that the University shall also work out the method to give effect to the Clause 14.1(b) of the Statute by laying down the norms of appointment/absorption/promotion. Needless to say that the laying down the norms has to be in accordance with the University Statute, regulations and norms including the resolutions taken by the Board of Management.

7. Having heard learned Counsel for the parties, it is directed that the University shall fill up the posts as provided under Clause 14.1(b) as the posts are lying vacant and stagnation has taken place within a period of six months from the date of receipt of the order passed today. Be it noted, before taking the steps for filling up the posts the percentage of posts that would come within the compartment of Clause 14.1(a) and 14.1(b) shall be worked out by the competent authority by amending the statute as agreed to by learned Counsel for the University within a period of four weeks from the date of receipt of the order passed today. In any case the exercise for filling up the posts shall be completed as directed hereinabove.

8. With the aforesaid modification in the order of the learned Single Judge, the appeal stands disposed of without any order as to costs.