

(2024) 03 PAT CK 0088

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 2383 Of 2019

Shiv Kumar Mishra And Anr

APPELLANT

Vs

Vice Chancellor, Lalit Narayan Mithila University And Ors

RESPONDENT

Date of Decision : 19-03-2024

Acts Referred:

Constitution of India, 1950 — Article 16

Citation : (2024) 03 PAT CK 0088

Hon'ble Judges : Anjani Kumar Sharan, J

Bench : Single Bench

Advocate : Ajit Kumar Ojha, Md. Nadim Seraj, Shailesh Kumar

Final Decision : Dismissed

Judgement

1. Heard learned counsels for the parties.
2. By the present writ application, the petitioners seek a direction to the respondent authorities to regularise their ser-vices.
3. Learned counsel for the petitioners submits that the petitioners joined their services on daily wages on 10.05.1986 and they were discharging their duties to the satisfaction of all concerned, but a termination letter dated 27.04.1994 was is-sued without any cogent reason.
4. Being aggrieved by their termination from the ser-vice, the petitioners approached this court vide C.W.J.C. No. 10099 of 1996 praying for quashing of the letters of termina-tion so issued on the ground that such terminations had been previously set aside by this Court through different writ peti-tions. The case was taken up by a bench of this Court and this Court vide its order dated 26.08.1997 was pleased to observe thus:

"I am not going to decide the question as to whether the petitioners are similarly situated per-sons like the petitioners of C.W.J.C. No. 9048 of 1994, 9049 of 1994 and 9192 of 1994 or not. Daily wage engagement can be made in any or-

ganisation even in absence of a post. Therefore, whether the petitioners were appointed against the clear vacant posts or not is not the criteria. This Court has already directed the respondents to fill up all the non-teaching vacant posts of the college, in question after due advertisement and selection. I reiterate the same while passing this order.”

5. It is further submitted that pursuant to the order mentioned in the paragraph above, the University invited application for filling up the vacant class IV post and the petitioners applied for the same, but they were neither appointed nor their case was considered for appointment. Thereafter, the petitioners filed a case for initiation of contempt vide M.J.C. No. 3850 of 2000. Unfortunately, without any fault on the part of the petitioners, the said M.J.C. No. 3850 of 2000 was dismissed for non prosecution as the counsel did not appear despite repeated calls.

6. It is further submitted that since the case of the petitioners of C.W.J.C. No. 10099 of 1996 was covered by the order dated 18.05.2000, the petitioners preferred their contempt application in that regard which stood dismissed for default.

7. It is further submitted that despite directives of this Court in the above said writ petitions, the case of the petitioners was not considered, but enough work is being taken from them even today. In this regard in support of their contentions, the petitioners have brought on record letters dated 06.04.2012, 17.01.2013, 17.11.2017, 24.09.2015, 13.07.2015, 16.01.2017, 05.02.2018 and 26.03.2018, which indicates that work is still being taken from petitioner no.1 whose signature has been attested in some of the letters. So far as the petitioner no.2 is concerned, though work is still being taken from him, but he is not in a position to produce documents to that effect.

8. It is further submitted that one Indu Kumari, who is junior to petitioner no.1, was regularized pursuant to an order dated 07.12.2015 passed in C.W.J.C. No. 1489 of 2013.

9. From the above facts and circumstances, it is crystal clear that the petitioners are being discriminated, victimised in exercise of the executive powers vested in the authorities concerned. The impugned act of respondent authorities, in not considering the case of the petitioners for regularization despite they have served the universities for such a long time and appointing persons junior to the petitioners, is violation of Article 16 of the Constitution of India.

10. Learned counsel for the petitioners filed rejoinder to the supplementary counter affidavit stating therein that as per the contention made in para 6 of the counter affidavit, the university has advertised for regular appointment of posts and the same was published in “AAJ” hindi daily newspaper dated 23.03.1997. Though the respondent authorities have stated regarding advertisement in the aforesaid newspaper “AAJ” dated 23.03.1997, but it would be pertinent to submit at this stage that the petitioners were working in the said college since 1988 and

not pursuant to the aforesaid advertisement as claimed by the respondent. Although the advertisement was issued in the year 1982, the petitioners proceeded to join the University but no interview has been taken in that period, but in the year 1988, the concerned respondent called petitioners and gave them a choice of working on daily wages basis sub-ject to regularization on experience.

11. Learned counsel for respondent nos. 1 & 2 filed counter affidavit stating therein that the petitioners along with others had earlier filed writ application bearing C.W.J.C. No. 10099 of 1996. This Court vide order dated 26.08.1997 had directed the respondent-University to advertise posts for regular appointment. The University advertised the same in the year 1997 for regular appointment. The petitioners were not qualified on the basis of the Interview conducted by the University.

12. It is further submitted that the petitioners filed contempt petition bearing MJC No. 3850 of 2000. The Court dismissed the above contempt application vide order dated 03.04.2012.

13. In view of the aforesaid discussions, it is not in dispute that in compliance of the direction of this Court vide order dated 26.06.1997, the University advertised the post for the regular appointment. The petitioners did not qualify the Interview conducted by the respondent-University. Hence, their case for regularization could not be considered and now, they are trying to reopen the matter once again which attains its finality.

14. Considering the above facts aforesaid, this writ application is dismissed.