

(2016) 04 PAT CK 0002

In the Patna High Court

Case No : Letters Patent Appeal No.1873 of 2012 (in Civil Writ Jurisdiction Case No. 1873 of 2012)

The Rajendra Agriculture University

APPELLANT

Vs

Subhash Chandra

RESPONDENT

Date of Decision : 01-04-2016

Acts Referred:

Citation : (2017) 2 PLJR 508

Hon'ble Judges : Navaniti Prasad Singh and Nilu Agrawal, JJ.

Bench : Division Bench

Advocate : LPA No. 1873 of 2012; Mr. D.K. Sinha, Sr. Advocate and Mr. Arvind Ujjwal, Advocate, for the Appellant; Mr. Prabhakar Dwivedi, AC to SC 21, for the State; Mr. Chittranjan Sinha, Sr. Advocate and Mr. Alok Ranjan, Advocate, for the Respondent; LPA No. 160 of

Final Decision : Dismissed

Judgement

Mr. Navaniti Prasad Singh, J. (Oral) - For the reasons indicated in I.A. No. 7879 of 2012, the delay in filing L.P.A. No. 1873 of 2012 is condoned.

2. I.A. No. 7879 of 2012 is, accordingly, allowed.

3. These two intra-court appeals, one by Rajendra Agriculture University and other by the State of Bihar are against the judgment and order dated 06.12.2010, passed by learned Single Judge of this Court in C.W.J.C. No. 14742 of 2005 (Subhash Chandra and another v. The State of Bihar and others).

4. We have heard Sri Pushkar Narain Shahi, AAG-10 for the State, Sri D.K. Sinha learned Senior Counsel for Rajendra Agriculture University and Sri Chittranjan Sinha, learned Senior Counsel for the writ petitioners-respondents and with their consent are disposing of these two intra-court appeals at this stage itself.

5. Pursuant to advertisement issued in the year 1974 by the Agriculture University the writ petitioners were recruited as Workshop Superintendent who

have academic qualification of bachelors degree/diploma holders in mechanical and production engineering and three years of practical experience in a responsible capacity of workshop or production in a firm or an institute of repute. There were series of litigations and ultimately the matter reached the Apex Court as to the correct remuneration that is to be paid to the writ petitioners. Upon affidavits and counter affidavits being filed before the Apex Court, the Apex Court disposed of the S.L.P. in view of the stand taken by the University that they would be granted the pay scale as prescribed by the All India Council for Technical Education, which is being paid in other engineering colleges with effect from 01.11.2001. In view of the aforesaid stand of the University the writ petitioners withdrew their appeals with leave of the Apex Court. Thereafter University started paying them the pay scale as provided in the AICTE Rules. Subsequently, there appears to have been a change of attitude with a change of management. Annexure-15, the impugned annexure in the writ petition was then issued. It took a stand that the qualification as required by AICTE was that of a post-graduate. The writ petitioners being only graduates and/or diploma holders with experience could not be given that pay scale.

6. When the matter came up before the learned Single Judge a new stand was taken that the AICTE Rules itself do not apply to the writ petitioners. Apparently, the two stands were contradictory. If the Rules did not apply the qualifications could not be looked into, and, if the qualifications are to be looked into then the Rules did apply. We would not like to go into this controversy because State, University and the writ petitioners suffered and/or intra-party order as before the Apex Court and the University agreed to grant the petitioners the pay scale as prescribed under the AICTE Rules and in fact did so for a number of years. There being an intra-party order and the University having agreed to it and complied with it, cannot now retreat.

7. Let it be noted that the order of the Apex Court is dated 30.10.2001 where after petitioners were paid in accordance with the rates as specified in the Rules as were being paid in other universities. It is only on 24.03.2003 that the impugned Annexure-15 to the writ petition was then issued by the University.

8. In the facts aforesaid, we find no justification to interfere in the matter. Both the appeals filed by the State and the University are, accordingly, dismissed.