

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16923 of 2025

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Ramji Singh S/o-Late Kamta Prasad Singh R/o Ward No.- 10, Village and
P.O. and P.S.- Pauna, District- Bhojpur, Bihar, Pin- 802201.

... .. Petitioner/s

Versus

1. Aryabhatta Knowledge University Mithapur, Patna through its Registrar.
2. The Vice Chancellor, Aryabhatta Knowledge University, Mithapur, Patna.
3. The Registrar, Aryabhatta Knowledge University, Mithapur, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Sr. Advocate with
Mr. Gyan Shankar, Adv.
For the Respondent/s : Mr. P. K. Verma, Sr. Advocate with
Dr. Anand Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 02-12-2025

Heard the parties.

2. The petitioner was duly appointed against the post of Finance Officer, Aryabhatta Knowledge University for the period of five years in terms with the Appointment Advertisement No. 1/2019. Admitting the terms of the appointment letter dated 18.06.2020 that he would again be eligible for reappointment and accordingly in terms of the provision as contained in Section 7(b) of Chapter-I of the Statutes of the University prescribed in the Bihar Gazette (extra) dated 27.05.2011, the petitioner has been reappointed for the next five years under Memo No. 2922 dated 14.06.2025.

3. However, on a question having been raised by one



Santosh Kumar Sharma regarding eligibility of the appointment of the petitioner, the Court of the University in its 28th Meeting dated 26.08.2025 took a fresh decision for publication of a new advertisement for the selection and appointment against the post of Finance Officer in the University. The afore noted decision of the Court dated 26.08.2025 is put to challenge before this Court. The petitioner further sought quashing of the recruitment notice bearing Appointment Advertisement No. 3/2025 dated 27.09.2025 published by the University for selection and appointment against the post of Finance Officer and further sought quashing of letter No. 5128 dated 27.09.2025 by which the petitioner has been communicated that since he does not possess the requisite qualification for the post of Finance Officer under the Statutes of the University, so fresh Advertisement No. 3/2025 has been advertised by the University, and till fresh appointment the petitioner is directed to discharge his duties against the post of Finance Officer of the University.

4. Mr. Mrigank Mauli, learned Senior Advocate for the petitioner while assailing the impugned decision and the recruitment advertisement, submitted that for appointment against the post of Finance Officer in the Appointment Advertisement No. 1/2019, the Screening Committee duly



constituted by the University had found the application form of the petitioner in order and thereupon the Selection Committee consisted of the Vice Chancellor, Nominee of the Chancellor, State Government Nominee, two members of the Executive Council nominated by the Vice Chancellor and one member of the SC/ST/OBC having academic interest nominated by the State Government, found the petitioner eligible on the basis of his educational qualification and his performance in the interview as well as the work experience. On the basis of the merit list, the Executive Council of the University in its 40th Meeting dated 18.06.2020 resolved and took a decision to appoint the petitioner against the post of Finance Officer.

5. Referring to Section 7(a) of Chapter-I of the Statutes of the University, learned Senior Advocate submitted that the Finance Officer is to be appointed by the Executive Council on the recommendation of the Selection Committee of the University and thus after all the formalities having been duly completed, the petitioner was appointed for five years. In the meanwhile, the appointment of the petitioner is questioned in a Public Interest Litigation bearing CWJC No. 19565 of 2021, which came to be disposed of vide order dated 06.01.2022 with a direction to approach the Vice Chancellor of the University.



The Vice Chancellor of the University found and observed, appointment of the petitioner legal and valid, in accordance with the prescription as provided in the Aryabhata Knowledge University Act and the Statutes of the University. The order afore noted was again challenged in CWJC No. 9106 of 2024 but the same was dismissed as withdrawn vide order dated 24.06.2024. Thereafter the matter has been brought before the Hon'ble Chancellor. The University defended and justified the appointment of the writ petitioner and subsequently the Executive Council in its meeting dated 14.06.2025 under the Chairmanship of the Vice Chancellor of the University and in terms of the provision as contained in Section 7(b) of Chapter-I of the Statutes of the University took a decision to reappoint the petitioner for the next five years or till the date of his superannuation as prescribed by the State Government, vide notification under Memo No. 2922 dated 14.06.2025.

6. There had never been any whisper with regard to the lacking of eligibility of the petitioner. The Advertisement No. 1/2019 clearly prescribes the minimum qualification which, *inter alia*, provided five years of administrative experience as Assistant Registrar or on equivalent post or experience as an officer in the office of the Accountant General, Bihar or Bihar



Accounts Service or Bihar Finance Service; besides some other eligibility criteria. Since the petitioner had more than five years of administrative experience as Assistant Registrar or on equivalent post, he was duly appointed in terms with the provision of Section 7(a) Chapter-I of the Statutes of the University read with State Government resolution No. 2693 dated 27.08.2010. It is further clarified that the petitioner having qualification of B.E. (Mech.) Degree and Master's Degree in M. Sc. (Engineering) and on the basis of more than five years experience against the post of ODS(Examination) at Aryabhata Knowledge University, he was possessing all the qualification and further he admittedly secured higher position in the merit list. The Executive Council on the recommendation of the Selection Committee of the University on being satisfied with the eligibility and successful completion of the period of five years on the post of Finance Officer, reconsidered the case of the petitioner in terms with Section 7(b) Chapter-I of the Statutes of University, took a final decision to reappoint the petitioner as Finance Officer for the next five years or till the date of superannuation.

7. Surprisingly, for all the times and in all the places, the University took a stand that there is no infirmity in the



appointment of the petitioner and possessing all the eligibility qualification, resultantly he was reappointed as Finance Officer, but all of a sudden, the University Court resolved in its 28th Meeting dated 26.08.2025, that the petitioner lacks eligibility and, as such, a fresh advertisement was issued. The advertisement issued during midst of the period of working of the petitioner as a Finance Officer by casting a cloud over his initial appointment as well as reappointment, is wholly unsustainable and illegal, is the contention of the learned Senior Advocate. The impugned order is also bad in the eyes of law for the simple reason that once the right has been created in favour of the petitioner to continue as a Finance Officer after having been reappointed in terms with Section 7(b) Chapter-I of the Statutes, he cannot be deprived to discharge his duty as Finance Officer till completion of five years or the date of superannuation, whichever is earlier, that too without any notice or opportunity of the petitioner to rebut the stand of the University that the petitioner does not have eligibility to continue as a Finance Officer. The order is at all not sustainable as the University cannot blow hot and cold on different occasions. It is the University who had been supporting the appointment and reappointment of the petitioner before the



Court as well as the Chancellor but subsequently took a contrary stand, which is not at all permissible in law as well as on facts.

8. *Per contra*, learned Senior Advocate, Mr. P. K. Verma submitted that “The Court” is the Apex body of the University having power to review and rectify the earlier wrongs if the same is noticed by the members of the Court. An illegality if occurred at the time of selection of the petitioner, the same cannot be perpetuated. So far the appointment of the petitioner as Finance Officer of the University is concerned, the same was done in absentia of the officers of the Accountant General, Bihar or the Account Service or the Bihar Finance Service. When this fact has been brought to the knowledge of the members of the Court of the University with regard to non possession of the requisite qualification by the petitioner for the post of Finance Officer as prescribed in Section 7(a) Chapter-I of the Statutes of the University, the Court in its 28th Meeting dated 26.08.2025 decided to issue new advertisement for appointment of Finance Officer in consonance with the afore noted prescription. Accordingly, the Advertisement No. 3/2025 has been issued.

9. Taking this Court through Section 7 (a) of the Statutes, it is submitted that it clearly stipulates the essential



qualification for appointment on the post of Finance Officer. Mr. Verma, learned Senior Advocate further placed reliance upon the decision rendered by the Hon'ble Supreme Court in the case of *Rajasthan Public Service Commission v. Kaila Kumar Paliwal & Anr*[(2007) 10 SCC 260]. Drawing the attention of this Court to paragraphs 11, 12, 19 and 21, it is thus submitted that the recruitment to a post must be made strictly in terms of rule operating in the field and the essential qualification must be possessed by a person as on the date of issuance of the notification or as specified in the rules and only in absence thereof, qualification acquired till the last date of filing of the application would be a relevant date. A person having not possessing the essential qualification, his case cannot be considered for appointment or promotion. Even the Selection Committee, in absence of any express power conferred upon it, cannot relax such essential qualification.

10. This Court has anxiously heard the learned Senior Advocates for the respective parties and also perused the materials available on record. Before parting with the case, it is pertinent to state here that in a conflict between an advertisement and statutory rules/regulation/Statute, there is no dispute that it is a statutory rules, regulation and statute that will



prevail. The decisions/judgments passed by the Apex Court consistently upheld that the statutory rules and the official regulations take precedence over the content of the advertisement and any part of the advertisement that contradicts them is invalid. An erroneous advertisement cannot create a right for an applicant if it conflicts with established rules.

11. The Apex Court in the case of *Ashish Kumar vs. The State of Uttar Pradesh & Ors [Civil Appeal NOs. 170-71 of 2018]* has underscored the precedence of statutory rules over the prescription of advertisement in case of any conflict. It is would be apt to recaptulate the relevant paragraph:

“22. Any part of the advertisement which is contrary to the statutory rules has to give way to the statutory prescription. Thus, looking to the qualification prescribed in the statutory rules, appellant fulfills the qualification and after being selected for the post denying appointment to him is arbitrary and illegal. It is well settled that when there is variance in the advertisement and in the statutory rules, it is statutory rules which take precedence. In this context, reference is made in judgment of this Court in the case of Malik Mazhar Sultan & Anr. Vs. U.P. Public Service Commission & Ors., 2006 (9) SCC 507. Paragraph 21 of the judgment lays down above proposition which is to the following effect:



"21. The present controversy has arisen as the advertisement issued by PSC stated that the candidates who were within the age on 01.07.2001 and 01.07.2002 shall be treated within age for the examination. Undoubtedly, the excluded candidates were of eligible age as per the advertisements but the recruitment to the service can only be made in accordance with the Rules and the error, if any, in the advertisement cannot override the Rules and create a right in favour of a candidate if otherwise not eligible according to the Rules. The relaxation of age can be granted only of permissible under the Rules and not on the basis of the advertisement. If the interpretation of the Rules by PSC when it issued the advertisement was erroneous, no right can accrue on basis thereof. Therefore, the answer to the question would turn upon the interpretation of the Rules."

12. It would also be pertinent to remind that the power of Selection Committee to relax the eligibility does not include the power to take/do away with the criteria as has been held in ***Food Corporation Of India & Ors vs Bhanu Lodh & Ors [(2005) 3 SCC 618]***.

13. Now coming to the case at hand, very appointment



of the petitioner as Finance Officer was made in terms with the Section 7(a) Chapter-I of the Statutes which reads as follows:

“7(a) The Finance officer shall be appointed by the Executive council on the recommendations of the Selection committee of the university either on deputation or by re-employment from amongst the officers of the office of the Accountant General, Bihar or Bihar Account Service or Bihar Finance Service and he shall be a whole time salaried officer of the university.”

14. Bare reading of the prescription afore noted, it clearly appears that the Finance Officer will be the officers of the of the Accountant General, Bihar or the Bihar Accounts Service or the Bihar Finance Service. Since it is the stand of the University that Advertisement No. 1/2019 was issued not in strict compliance of Section 7(a) of the Statute as the appointment was done, in absentia of the officer of the Accountant General, Bihar or Accounts Service or the Bihar Finance Service, this Court has no reason or occasion to make any observation in this regard. However, once the members of the Court of the University, which is the Apex body of the University has confronted with the question of eligibility of the petitioner to continue as the Finance Officer, the University is duty bound to adhere with the statutory prescription.



15. Hence issuance of fresh advertisement in terms with Section 7(a) Chapter-I of the Statutes which prescribes the minimum eligibility as, afore noted, cannot be held to be faulted. The writ petition sans any merit, accordingly, the same stands dismissed.

16. There shall be no order as to cost.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	04.12.2025
Transmission Date	

