

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12693 of 2000

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DR. U.N.PANDEY, son of late Rameshwar Pandey, resident of Mohalla
Kashipur, P.S. Samastipur, district Samastipur ... Petitioner

Versus

1. The Lalit Narayan Mithila University, Darbhanga through its Registrar
 2. The Vice-Chancellor, Lalit Narayan Mithila University, Darbhanga
 3. The Bihar State University (Constituent Colleges) Service Commission,
through its Secretary Patna
 4. The Chancellor of the Universities of Bihar
 5. Principal, Samastipur College, Samastipur ... Respondents
- =====

Appearance :

For the Petitioner : Mr. Shantanu Kumar
For the Respondents : Mr. Yugal Kishore

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL JUDGMENT

Date : 12-04-2022

Heard the parties.

2. This matter is pending since 2000 and therefore in spite of a request made by the counsel for the petitioner no adjournment is being given.

3. Leaned counsel has thereafter argued the matter on merits and submits that the petitioner had been promoted as a Reader vide order dated 22.12.1971 thereafter the Vice Chancellor in exercise of powers of the Syndicate under Section 79A of the Bihar State University Ordinance, 1986, promoted the petitioner as a University Professor with effect from 01.12.1985 on completion of 16 years of tenure. The promotion was granted subject to concurrence of the Bihar State University (Constituent Colleges)



Service Commission. However, by impugned order the date of promotion of the petitioner was shifted to 01.12.1985 to 08.01.1993 without any reason coming forward.

Learned counsel submits once the petitioner has already been promoted as Professor with effect from 01.12.1985 and had submitted of his research work which made him eligible for time bound promotion in the post of University Professor on completion of 16 years of service there was no occasion to shift him under the 25 years time bound promotion scheme. It is submitted that not only the petitioner was placed earlier in the pay scale of Rs.7,300/-, but now he has been given pay scale of Rs.5,700/- alone.

Learned counsel submits that there was no occasion to shift him from 16 years promotion scheme to 25 years scheme. It has also been pointed out that as many as five persons junior to the petitioner were granted benefit of 16 years promotion scheme and no reason has come-forward for denying the petitioner the said benefit. He also pointed out that the achievement of petitioner in subject of Chemistry in terms of publication of research paper and participation in national/international conference has been outstanding. While else who do not have experience in research have been granted promotion.

4. Counter affidavit has been filed wherein it is stated that the name of the petitioner was earlier recommended for



promotion to the post of University Professor on completion of 16 years of service but the Commission did not approve the name of the petitioner. Since no concurrence was given, petitioner was promoted under the 25 years time bound scheme. It is submitted that the screening committee was formed constituting of Vice Chancellor, Dean of the faculty of the Department and two Experts who found the petitioner suitable for promotion under 25 years time bound scheme vide the other five persons were found suitable under the 16 years time bound scheme.

5. I have considered the submissions.

6. The petitioner stood already promoted with effect from 01.02.1985 as Professor whereafter it appears that the Screening Committee was formed and the same recommended for promotion of the petitioner on completion of 25 years time bound scheme. No reasons have come forward for shifting the petitioner from 16 years promotion scheme to 25 years time bound scheme. There is not adversity to his discredit. Once a person is found fit for promotion no distinction can be drawn between his previous recommendation and the subsequent recommendation unless there is some change in service record. Promotion under 16 years scheme is independent promotion of 25 years time bound scheme. Person who was earlier considered under 16 years has, therefore, to be either rejected under the 16 years scheme or promoted thereunder.



7. There is no order by the Screening Committee rejecting the promotion awarded earlier to the petitioner under the 16 years scheme granting approval can not be discretionary, it has to be based on cogent reasons which must come forward in the reply. However, the reply filed by the University is total laconic, it does not give out any reason why the petitioner's date of promotion was shifted, more over persons junior to petitioner have been promoted under the 16 years scheme. A time bound promotion scheme would be in the reference for selection on the post but it should be on the basis of scrutiny.

8. In view thereof, the writ petition is allowed. The order shifting the year of promotion from 01.02.1985 to 08.01.1993 is quashed. The petitioner would be treated as promoted with effect from 01.02.1985 as per the notification (Annexure 3) and would also be entitled to all consequential benefits. Implementation or order shall be made positively within a period of two months.

(Sanjeev Prakash Sharma, J)

Shamshad/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	09.05.2022
Transmission Date	

