

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18937 of 2021

1. Krishna Narayan Mishra Son of Prabhu Narayan Mishra P-2 University Bungalow, Khandwa Road, Indore (M.P.)
2. Devjee Mishra Son of Late Bateshwar Mishra resident of Village- Jagatpur, P.S.- Krishnagarh, District- Bhojpur at Ara

... .. Petitioner/s

Versus

1. Veer Kuwar Singh University Ara through its Registrar
2. The Vice- Chancellor, Veer Kuwar Singh University Ara
3. The Registrar, Veer Kuwar Singh University Ara

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Singh, Advocate.
For the Respondent/s : Mr. Rajesh Prasad Chaudhary, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 07-04-2025

Heard Mr. Sunil Kumar Singh, learned counsel appearing on behalf of the petitioners and Mr. Rajesh Prasad Chaudhary, learned counsel for the Veer Kuwar Singh University.

2. The petitioners in paragraph no. 1 of the present writ petition have sought, *inter alia*, following relief(s), which is reproduced hereinafter:-

“That this is an application for issuance of an appropriate writ/directions for quashing the notification contained in Memo no. 1696/Estab/2021 dated 11.9.2021 issued by the Registrar of Veer Kuwar Singh University Ara (hereinafter referred as the University) whereby and whereunder petitioners appointment on the post of Assistant Professors of M.B.A. (self Finance course) in the said University has been cancelled and allow them to function on the post Assistant Professors. The petitioners further pray for payment of arrear of salary as Assistant Professor in M.B.A. (self finance course) and also grant any other



reliefs for which petitioner is found entitled in the facts and circumstances of the case.”

3. An Advertisement No. 01 of 2020 was published on 22.05.2020 seeking application from the prospecting candidates having requisite qualification for the post of Assistant Professor in different faculty. The petitioners had applied for the post of Assistant Professor of M.B.A. (Self Finance Course). The advertisement was in respect of five posts under different categories informing that the payment of honorarium shall be made subject to the availability of funds and decision of the Finance Committee.

4. Petitioners are aggrieved by the decision of the University contained in Memo No. 1696/Estab/2021 dated 11.09.2021 (Annexure-1) issued under the signature of the Registrar of the Veer Kuwar Singh University, Ara, by which the engagement / appointment of the petitioners were cancelled. Learned counsel appearing on behalf of the petitioners submitted that after following the due process of appointment in accordance with law, the petitioners were appointed on the post of Assistant Professor of M.B.A. (Self Finance Course) on 08.12.2020 and the petitioners were discharging their duties till 11.09.2021. On the basis of the report of the Enquiry Committee, the Syndicate proceeded to review its own decision



which was taken in respect of advertising the post vide Advertisement No. 01 of 2020 and pursuant to which, the petitioners were selected in accordance with the terms and conditions of the said advertisement and they were also getting the required pay scale of Assistant Professor as per the UGC guidelines as per the decision of the Syndicate taken in exercise of power contained in Section 23 of the Bihar Universities Act. Learned counsel further submitted that the decision to cancel its own decision by the Syndicate is against the statutory provision of the Bihar Universities Act, 1976. There is no provision of review in the Statute and cancellation of appointment of the petitioner on this very ground is not sustainable in the eye of law. Learned counsel further submitted that the petitioner was not given any due opportunity of hearing and taking notice of the statement made in Para-9 of the counter affidavit filed on behalf of the University, learned counsel submitted that the order of cancellation of the appointment, even considering to be contractual appointment or Ad hoc appointment is not termination simplicitor as the terms and conditions of the appointment is in accordance with the governing statutory provision of the Universities Act, 1976. Learned counsel further submitted that even if it is considered that the appointment of the petitioners was on temporary basis subject to the availability



of funds and approval of the Finance Committee in terms of the advertisement, then also the same will be considered to be punitive in nature considering the statement made in Para-19 wherein a consideration has been made in respect of the past services of the petitioner no.2 in the Air Force. On these grounds, learned counsel submitted that the impugned order contained in Memo No. 1696/Estab/2021 dated 11.09.2021 (Annexure-1) in respect of cancellation of services of the petitioners is not in accordance with law and same is fit to be set aside and quashed.

5. *Per contra*, Mr. Rajesh Prasad Chaudhary, learned counsel appearing on behalf of the University submitted that the petitioners' conduct is self evident from their own pleading made in Paragraph No.7 of the rejoinder in which petitioner no.2 has not contradicted that he has been dismissed from Air Force after proper holding of Court Martial and the said decision was upheld by the Hon'ble Supreme Court vide order dated 27.09.2016 passed in Civil Appeal No. 823 of 2013. Learned counsel further submitted that the Syndicate was apprised by the Enquiry Committee duly constituted pursuant to the Advertisement No. 01 of 2020 and on the basis of the Enquiry Committee report, the functionaries of the Universities who have made appointment of the petitioners at the relevant



point of time were responsible for such illegality committed in the appointment of the petitioners and other Assistant Professors pursuant to the Advertisement No. 01 of 2020. Learned counsel further submitted that illegality should not be perpetuated, however, though no observation was made by this Court vide order dated 03.09.2024 in respect of petitioner no.2, but the petitioner no.2 was advised to withdraw the writ petition. Learned counsel further submitted that in Para-10 of the counter affidavit, specific statement has been made that in the meeting of the Syndicate dated 01.09.2021, it had come to the knowledge of the Syndicate that person having less than 60% marks were also appointed as an Assistant Professor in the Department of M.B.A., which is in complete violation of Section 5(10) of the Statute Part-II of the Bihar State Universities Act, 1976. However, learned counsel admits that no specific information has been given in respect of the petitioners in respect of their percentage of marks obtained in Master of Business Administration Course. As the same was not provided by the petitioners at the time of submission of their resume, the decision of the Syndicate dated 01.09.2021 cannot be interfered with.

6. Heard the parties.

7. Having heard the rival submissions made on



behalf of the parties as well as the pleading made in the writ petition and the counter affidavit, the main issue involved in the present writ petition is as to whether pursuant to the appointment of the petitioners on 08.12.2020, can their appointment be cancelled unilaterally on the basis of the decision of the Syndicate dated 01.09.2021?

8. The law in this regard is well settled in the case of *Swati Priyadarshini vs. the State of Madhya Pradesh & Ors. (Civil Appeal No.9758 of 2024 arising out of Special Leave Petition (C) No.11685 of 2021)*, wherein the Hon'ble Supreme court has held that even in the case of contractual employee before the order which is punitive in nature is passed, the minimum requirement is to provide opportunity of hearing after holding the inquiry and giving reason for the same.

9. It is admitted that the petitioners were getting honorarium of Rs.30000/- per month and on the basis of the internal report of the inquiry committee, the petitioners were appointed pursuant to the Advertisement No. 01/2020 after following the due process of selection as prescribed therein in the Statute. The action of the University and its authority including the Syndicate in reviewing its own decision is alien to the statute of the University and the remarks in the order dated 11.09.2021 can only be said to be punitive in nature.



10. The order impugned also cannot be held to be in accordance with law affecting the future appointment of the petitioner no.2 who had already given all details in respect of his past services and his dismissal from the Indian Air Force. There is no suppression of any information on the part of the petitioners and for the fault of the University at the time of engagement / appointment of the petitioners, the University is solely responsible for their own act.

11. The impugned order contained in Memo No. 1696/Estab/2021 dated 11.09.2021 on the basis of the decision of the Syndicate dated 01.09.2021 being punitive is set aside and quashed.

12. The concerned respondents are directed to take corrective steps in accordance with law.

13. The writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	09.04.2025
Transmission Date	N.A.

