

(2008) 09 PAT CK 0183

Patna High Court

Case No: CWJC No. 9048 of 2008

Dr. Janardan Prasad Singh

APPELLANT

Vs

The Union Government of India
and Others

RESPONDENT

Date of Decision: Sept. 11, 2008

Citation: (2009) 1 PLJR 346

Hon'ble Judges: Navin Sinha, J

Bench: Single Bench

Advocate: Ajay Sinha, Gyanand Roy, for the Appellant; Prashant Kashyap for the Union of India, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Navin Sinha, J.

Heard learned counsel for the petitioner and learned counsel for the respondents. I.A. No. 3602/08 has been filed challenging the order of the respondent University dated 21.6.2008 annulling the extension granted to the petitioner by order dated 31.5.2008 on the post of Additional Director of the Population Research Centre, Patna University. The original relief sought was for quashing the proposal for fresh advertisement and not to make appointment afresh on the post of Additional Director.

2. The Ministry of Health and Family Welfare, Government of India established a network of Population Research Centres (P.R.Cs.) to carry out research and studies on various social and economic aspects of Health and Family Welfare Programs. These are primarily located in Universities. They function as a plan scheme of the Ministry of Health and Family Welfare, Government of India and which provides 100% funds for meeting the salary, allowances, research and studies, infrastructure etc. and recruitment expenditure on persons appointed thereunder. The funds are

paid by the Ministry of Health and Family Welfare, Government of India to the University which only looks after the administrative matters of the Population Research Centres.

3. An advertisement for appointment on the post of Additional Director was accordingly issued in response to which the petitioner, who was holding the substantive post as a University Professor of Sociology in the Patna University, applied. He came to be selected. His letter of appointment dated 7.6.2004 simply states that he was required to join within 15 days. If the vacancy was substantive, in absence of any other recital in the letter of appointment, it is presumed to be a substantive appointment. If that be so, the post of the petitioner as a Professor of Sociology gets jeopardized. In these circumstances more than three years after his appointment in a substantive capacity a letter was issued by the University purporting to modify his substantive appointment into one of deputationist from 7.6.2004 to 6.6.2008. Quite obviously, it suited the petitioner not to challenge this change of his status from his substantive status as Additional Director to that of a deputationist because otherwise he stood to risk to the status of a University Professor of Sociology. The petitioner was consciously traveling in two boats.

4. The question of the petitioner holding a substantive appointment both under the Ministry of Health and Family Welfare, Government of India and simultaneously under the University is too incongruous to accept. The same is not permissible in law and the question of his having lien on his substantive appointment simultaneously under the University does simply not arise.

5. The Ministry of Health and Family Welfare, Government of India, however, appears not to have objected to the deputationist status of the petitioner when it has now stated that since his deputation has expired on 6.6.2008 process of fresh appointment be initiated.

6. The argument of the petitioner that his employer was the University which had taken a decision on 31.5.2008 to extend his period of deputation till 6.6.2009 is misconceived and is outright rejected. The petitioner may be an employee of the Patna University in so far as his status as a University Professor of Sociology is concerned. In so far as his post of Additional Director in the Population Research Centre is concerned, it has to be kept in mind that it was a scheme of the Central Government which was meeting all funds and the University was merely the administrative body through which the executive actions were being performed. On that post his status was that of an employee of the Ministry of Health and Family Welfare, Government of India. Therefore, to urge that the Ministry of Health and Family Welfare, Government of India had no justification to issue a fresh advertisement for appointment on the post of Additional Director, cannot be upheld. Even if the Government of India accepted the deputationist status of the petitioner under the original advertisement, it lapses on 6.6.2008. It cannot be extended any further without a fresh advertisement and an open selection on

merits after giving opportunity to all concerned. The argument that the Ministry of Health and Family Welfare, Government of India cannot dictate terms to the University is nothing but an argument of desperation. The writ application stands dismissed,

7. If there be arrears of the petitioner for the period of his deputation on the post of Additional Director, whether the liability be that of the University or the Ministry of Health and Family Welfare, Government of India, the petitioner is clearly entitled to his payments for the period that he has actually worked. Let the legitimate dues of the petitioner be paid to him by the respondent concerned within a maximum period of three months from the date of receipt/ production of a copy of this order.