

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11061 of 2011

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Binodanand Jha Late Dinanath Jha Village + P.O. Managrauni, P.S. Rajanagar, Dist. Madhubani, Retired Lecturer, Department of Sociology, R.M. College, Saharsa.

.... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Human Resources Development, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Human Resources Development, Govt. of Bihar, Patna.
3. The B.N. Mandal University, Madhepura through its Registrar.
4. The Vice Chancellor, B.N. Mandal University, Madhepura.
5. The Registrar, B.N. Mandal University, Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

8 11.08.2015

Heard learned counsel for the parties.

The present writ application has been filed seeking a direction to the respondent University to fix the pension and other retiral benefits of the petitioner with effect from 21.02.1983 and not 16.01.1997.

Learned counsel for the petitioner submits that he was appointed in the college much earlier but his services have been regularized with effect from 16.01.1997, which is not proper. It is submitted that people similarly situated have been granted the benefit but the petitioner has been

discriminated against.

From the counter affidavit filed on behalf of the respondents the stand is that since the petitioner was not qualified to be appointed as Lecturer prior to 16.01.1997, his working on any post cannot be said to be in substantive capacity as the petitioner was not even entitled for consideration. It is submitted that as per the requirement of the statutes at the relevant time, the petitioner upon attaining the qualification of Ph.D could only be considered for appointment as a Lecturer and having taken note of the fact, the Agrawal Committee recommended for regularization of the petitioner's service as a Lecturer with effect from 16.01.1997. Accordingly, the Hon'ble Supreme Court put its seal of approval on the said date. It is submitted that once the service of the petitioner having been regularized with effect from 16.01.1997, his appointment in a substantive capacity can only be considered from that date.

Learned counsel for the respondents has submitted that even as per the statutes qualifying service for the purposes of pension means service rendered in a substantive capacity.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, this Court finds that the stand of the respondent University cannot be faulted as the petitioner has not been able to demonstrate

before the Court that he has been substantively appointed on the post of Lecturer prior to 16.01.1997.

Accordingly, no relief can be granted to the petitioner and the writ application stands disposed off.

(Ahsanuddin Amanullah, J.)

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