

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5520 of 2013

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Geeta Singh @ Geeta Sinha D/o Sri Anil Kumar Singh, R/o Village- Athri, P.S.-
Runi Saidpur, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna-1
2. The Director, Higher Education, Human Resources Development Department,
Government of Bihar, Patna-1
3. The Vice Chancellor, B.R. Ambedkar Bihar University, Muzaffarpur
4. The Registrar, B.R. Ambedkar Bihar University, Muzaffarpur
5. The Finance Officer, B.R. Ambedkar Bihar University, Muzaffarpur
6. The Principal, Ram Sewak Singh Mahila College, Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

Mr. Dhruva Mukharjee, Sr. Adv.

Mr. Ganesh Singh, Adv.

Mr. Purnendu Singh, GP-27

Mrs. Sunita Kumari, AC to GP-27

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 21-01-2016

No one appears on behalf of the petitioner but the
counsel for the University and the State are present.

In the present case, the petitioner has sought relief for
payment of full salary and scale of Assistant who has been appointed
in R.S.S. Mahila College, Sitamarhi.

As per the claim of the petitioner, she is working in
the aforesaid College which was taken over by the Bihar University
on 31st October 1980 and thereafter, the services of the employee of
the College were also taken by the University. Later on, the petitioner



has been discharging her duty since she did join the College while taking over the College, the University had directed to submit the list of teaching and non-teaching staff of the College, working against sanctioned post. In pursuance of the direction, the Principal of R.S.S. M. College, Sitamarhi sent the letter No. 339/84 dated 23/8/1984 to the Bihar University, Muzaffarpur providing the list of teaching and non-teaching staff of the College. The name of the petitioner is appearing at serial No. 9 in the list of non-teaching staff.

The petitioner was getting the salary from the Principal of the College through cheque but the payment has not been received from the Grants given by the State of Bihar.

The petitioner sent a representation for payment of her salary on the ground that she has been discharging her duty continuously since 1st January 1980 and her name was recommended by the said College but the respondent authorities have not assigned any reason as to why the salary of the petitioner equivalent to scale of Assistant under the University Statute, has not been paid to her.

The statement of the counter affidavit shows that the name of the petitioner was sent by the College for its sanction but the University has not received any reply from the State Government. Neither the case of the petitioner has been rejected nor it has been accepted.

Today a counter affidavit has been filed where it has been stated that the College has been taken over in the year 1980. Now after lapse of so many years, the service of the petitioner cannot be considered for regularisation in service, as she was working illegally, she is not entitled to the benefit which she has sought for.

Having considered the rival contentions of the parties, in view of judgment of Brij Kishore Singh Vs. State of Bihar, reported in 1997 (1) PLJR 509 (F.B.) where the Full Bench has considered such issue and arrived to a conclusion that if any person has been appointed within the staffing pattern, they will be treated that they were validly appointed by the Managing Committee and the person working therein will be entitled to the salary and other benefits.

In the present case, it has not been disputed by the parties that the petitioner has been working in the said College and her name was also sent by the College treating her within the staffing pattern the ground taken by the respondent cannot be a valid cause for non-suiting a person as because she has approached this Court after long lapse of time, as non-payment of salary to any person creates continuing cause of action to the concerned person.

In such view of the matter, the stand taken by the State is not germane and cannot be accepted. Direction is given to the

State to consider the case of the petitioner. The petitioner is also directed to file a detailed representation along with a copy of this order before the Principal Secretary, Education Department, Government of Bihar. If such representation is filed, the Principal Secretary is directed to consider the case of the petitioner and pass a reasoned order in accordance with law within a period of six months from the date of filing of the representation.

Accordingly, this petition is disposed of.

(Shivaji Pandey, J)

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