

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22448 of 2013

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Jagannath Prasad Sinha Son of Late Nand Prasad Singh, resident of mohalla - Subhash Nagar, Road No.3, P.O.Bhawanipur Chowk, P.S. Muzaffarpur Sadar, District – Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna
2. The Director, Secondary Education, Education Department, Government of Bihar, Patna
3. Bhim Rao Ambedkar, Bihar University, Muzaffarpur through the Vice Chancellor
4. The Vice Chancellor, Bhim Rao Ambedkar, Bihar University, Muzaffarpur
5. The Registrar, Bhim Rao Ambedkar, Bihar University, Muzaffarpur
6. The Finance Officer, Bhim Rao Ambedkar, Bihar University, Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar -Manglam

For the Respondent/s : Mr. Dhruva Mukherjee, Sr. Adv.

M/s Ganesh Singh and Praveen Kumari, Advs.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 24-10-2016

Heard learned counsel for the petitioner and learned counsel for the State.

In this case, the petitioner is aggrieved by an impugned order (Annexure-17), thereby his date of appointment has been shifted from 27.03.1968 to 01.05.1972 which is under challenge before this Court.

As per the claim of the petitioner, he was appointed as English Teacher on 27.03.1968 and has superannuated from service in the year 2003 from the post of Professor and in the service period, the

date of appointment of the petitioner was never challenged nor ever challenged promotion at the different stages.

The question of dispute arose after his superannuation from service, as they have treated the date of appointment of the petitioner 01.05.1972 which was the cause for shifting of the date of promotion as the Reader and the Professor and its effect.

The petitioner approached this Court, challenged the action of the respondent by C.W.J.C. No. 12299 of 2012 (Annexure-14), the Court remanded back the matter for fresh consideration giving direction to the Registrar of the University to grant a personal hearing to the petitioner in presence of the Auditor of University and pass a reasoned order.

In pursuance thereof, the petitioner approached the Registrar of the University and the Registrar by the impugned order, rejected the claim of the petitioner.

The counsel for the petitioner submits that at the relevant time, the post of Teacher in english subject was available and against that post, the petitioner was appointed whereas the University has taken plea that the appointment was made by the Ad hoc Committee at the relevant time, the posts were not sanctioned but later on, an advertisement No. 60/71-72 was published and on the basis of recommendation of the interview, the petitioner was appointed on



01.05.1972 but the fact remains that he stood discharging the duty from 27.03.1968 in the said College and the University has always treated to be appointed on the said date but after retirement, all the problems arose, after relationship with the University terminates on superannuation relationship remain alive for the purposes of retirement benefit not for the other purposes and so much so that as per the claim of the petitioner, others have been given the promotion from the date the Ad hoc Committee had appointed them but the University has adopted the approach of discrimination giving benefit to certain class of persons treating their appointment from 1968 and the petitioner has been deprived of such benefit.

The University is State within meaning of Article 12 of the Constitution of India, is covered parts III and IV of the Constitution of India, it should act in a fair manner and proper manner, not an arbitrary manner. If they have granted the relief to the certain persons treating their appointment to be legal from 1968 then the petitioner should also be granted the same benefit, it does not stand to the reason, the petitioner would not be given the benefit in a situation that during his entire service period, he was never questioned his date of appointment but problem arose after the retirement.

In such view of the matter, the order of the Registrar is not sustainable. The authority is directed to treat the date of his

appointment from 1968 and grant him all consequential benefit without delay, preferably within three months from the date of receipt/production of a copy of this order.

Accordingly, this petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
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