

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3355 of 2016

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Smt. Kamlesh Sharma, Daughter of Late Udho Ram Bhatnagar, resident of Housr No. 29, Phase I Ashiana Nagar, P.S.- Ashiana Nagar, Patna- 800025, at present working as Reader, Department of Philosophy, H.D. Jain College, Ara under Veer Kunwar Singh University, Ara.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Vikas Bhawan, Patna.
2. The Veer Kunwar Singh University, Ara through its Registrar.
3. The Vice Chancellor, Veer Kunwar Singh University, Ara.
4. The Registrar, Veer Kunwar Singh University, Ara.
5. The Finance Officer, Veer Kunwar Singh University, Ara.
6. The Principal, H.D. Jain College, Ara.

.... Respondent/s

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Appearance:

For the Petitioner/s	:	Mr. Navin Prasad Singh, Advocate Mr. Sarvoday Singh, Advocate
For the State	:	Mr. Karandeep Kumar, AC to GP-6
For the University	:	Mr. Rajesh Prasad Chaudhary, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 21-08-2017

Heard learned counsel for the petitioner, State and Veer
Kunwar Singh University.

2. The petitioner has moved the court for the following
reliefs:-

“(i) *For issuance of the writ in the nature of Mandamus commanding the respondents to shift the date of permanent absorption / regularization from 28.02.1982 to 13.08.1976 the date on which the petitioner joined on the 1st post of Lecturer in the Department of*



Philosophy, Mahila College, Dalmianagar after having been duly appointed on 01.08.1976.

- (ii) For issuance of writ of certiorari for partly quashing the notification of Veer Kunwar Singh University, Ara contained in Memo No. 930 dated 10.11.2014 to the extent that the date of absorption of petitioner i.e. 13.08.1976 as modified through the University Memo No. 92/Estab/13 dated 08.02.2013, has been cancelled by the University.*
- (iii) For a direction to the respondents for giving all the consequential benefits including the promotion after determining the date of absorption of petitioner i.e. with effect from 13.08.1976.*
- (iv) Any other relief or reliefs petitioner is entitled for in the facts and circumstances of the present case.”*

3. In sum and substance the grievance of the petitioner is that though her initial date of appointment had to be fixed with effect from 13.08.1976, in terms of the order passed by the Hon'ble Supreme Court, after taking into consideration the report submitted by the Justice Agrawal Commission, which itself was pursuant to verification from the records, such order could not be modified later on and her date of absorption shifted to 28.02.1982.

4. Learned counsel for the petitioner submitted that after



the recommendation of the Justice Agrawal Commission and disposal of the case by the Hon'ble Supreme Court, the University fixed the date of absorption of the petitioner with effect from 13.08.1976, which was subsequently approved by the Syndicate on 27.02.2011. The University again modified the date of absorption and fixed it as 28.02.1982, which the petitioner assailed in CWJC No. 14438 of 2010 and the matter was remanded for the petitioner to approach the Vice Chancellor who was required to take a decision on the same. In terms thereof, the petitioner filed a representation before the Vice Chancellor on 06.02.2013 and on 08.02.2013, the original date of absorption of the petitioner was again fixed with effect from 13.08.1976 and in the said notification it was also mentioned that the Syndicate in its meeting dated 27.02.2011 had also approved such date. Thereafter, again by the order dated 10.11.2014, the University went back and re-fixed the date of absorption, changing it from 13.08.1976 to 28.02.1982. However, a letter was issued to the petitioner on 01.06.2015 to place her case before the Vice Chancellor on 10.06.2015, but in spite of the petitioner doing the same, nothing has happened. Learned counsel submitted that when the Hon'ble Supreme Court has decided the matter, it was not open to the authorities to subsequently to make any change with regard to the date of appointment of the petitioner and further, when twice the



University as well as the Syndicate have approved her date of absorption as 13.08.1976, the action of the University is impermissible. It was further submitted that similarly situated persons had approached this Court in CWJC No. 21232 of 2014 in which a coordinate Bench of this Court, by order dated 23.06.2015, has passed order in favour of those writ petitioners and has held that the State cannot re-fix the date of recognition of the services of the petitioners as it was not open for it to challenge their appointment which was in terms of the Justice Agrawal Commission report. It was further submitted that in terms of the said order, consequential notifications have also been issued by the University accepting the date of absorption as fixed by the Justice Agrawal Commission.

5. Learned counsel for the University submitted that though the order of the learned Single Judge dated 23.06.2015 is there but the same was assailed in the Letters Patent Appeal which was dismissed and against which the State has approached the Hon'ble Supreme Court in SLA (C) No. 34635 of 2016, which is pending.

6. Having considered the matter, in view of the fact that there is an order of the learned Single Judge in the case of similarly situated persons i.e., order dated 23.6.2015 in CWJC No. 21232 of 2014, which till date has not been either interfered with or stayed, this Court is also inclined to pass similar order in the case of the



petitioner so that all such persons are on a level playing field and derive the same benefit which has accrued to other similarly situated persons. It goes without saying that the order of the Hon’ble Supreme Court in the aforesaid SLA would ultimately govern the fate of the petitioner both, of those cases as well as the present case.

7. Accordingly, the writ petition stands disposed off in terms of the order dated 23.6.2013 passed in ***CWJC No. 21232 of 2014*** in the case of ***Ram Pravesh Rai & others vs. the State of Bihar & others***. As stated earlier, it goes without saying that this order will obviously be subject to the order passed by the Hon’ble Supreme Court in the aforesaid SLA.

8. The University is required to pass appropriate orders in the case of the petitioner also, as has been done in the case of similarly situated persons.

(Ahsanuddin Amanullah, J)

S.Sb/-

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