

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7627 of 2017

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Arun Prasad, Son of Late Shankar Prasad, resident of Harihar Sadan, Supriya Road,
Shanti Nagar, P.S.- Bettiah, District- West Champaran. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Bihar, Patna.
 2. B. R. Ambedkar Bihar University, Muzaffarpur through its Registrar
 3. Vice Chancellor, B.R. Ambedkar Bihar University, Muzaffarpur.
 4. Registrar, B.R. Ambedkar Bihar University, Muzaffarpur.
 5. Principal, Ram Lakhan Singh Yadav College, Bettiah. Respondent/s
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Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava, Advocate
For the Respondent/s : Mr. Amit Bhushan, AC to GP-17
For the University : Mr. Rakesh Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 11-04-2018

Heard learned counsel for the petitioner and the
respondents.

2. The grievance of the petitioner in the writ
application is modification of the date of his initial appointment.

3. Learned counsel with reference to the report of the
Justice S. C. Agrawal Commission submits that the case of the
petitioner was considered by the Justice S.C. Agrawal Commission
and date of the appointment of the petitioner was held to be on
15.03.1980 and the date of regularization of the petitioner was
accordingly fixed on 15.03.1980, as evident from annexure 2 to the
writ application, extract of annexure IV-A of the Justice S.C. Agrawal
report, which was accepted in toto by the Hon'ble Apex Court in the



case of State of Bihar Vs. Bihar Rajya MSESKK Maha Sangh, reported in (2005) 9 SCC 129.

4. The issue as to the date of appointment stands concluded by the finding of Justice Agrawal Commission and University cannot alter the date of the appointment of the petitioner contrary to what has been worked out by Justice S. C. Agrawal Commission. Similar issue was considered by the Writ Court as well as L.P.A. Court. The decision of the L.P.A. Court in L.P.a. No. no. 218 of 2016 is clinching. For ready reference para 11 of the L.P.A. judgment is quoted herein below.

“11. We do not find any force in the submission, so advanced on behalf of the State of Bihar, for the simple reason that these aspects have been elaborately considered in the report of the Justice S.C. Agrawal Committee and, upon examination of all the aspects, the Committee recommended that in such cases, where recommendations for sanction of posts were pending with the State Government, before the cut off date, the effective dates of absorption of the teaching employees would be the dates, when they acquired the eligibility criteria. As has been already noted above, the said report has been accepted by the Supreme Court in its decision in case of *State of Bihar & Ors. Vs. Bihar Rajya MSESKK Mahasangh & Ors.* (supra). The issue, which has already been decided up to the level of Supreme Court, cannot be re-opened in the present proceeding. The learned Single Judge has rightly held the notifications, under challenge in the writ



proceedings (C.W.J.C. No. 21232 of 2014), to be, in the teeth of Supreme Court’s decision in case of *State of Bihar & Ors. Vs. Bihar Rajya MSESKK Mahasangh & Ors.* (supra), bad in law and, therefore, not sustainable.”

5. In view the above, the writ application is allowed.

The order contained in Annexure 3 is set aside, whereby the date of regularization was fixed by the University contrary to finding of the Justice Agrawal Commission. The Respondent University is directed to rectify its mistake and work out the entitlement of the petitioner for grant of promotion treating the date of appointment of the petitioner as 15.03.1980. Final decision as to rectification of record and consequential relief on the basis of corrected date of appointment may be taken by the respondents within a maximum period of four months from today.

6. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.04.2018
Transmission Date	

