

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17055 of 2013

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Lambodar Jha S/O Late Jagdish Jha Reader, Department Of Commerce R.M.
College, Saharsa, P.S- Saharsa, District- Saharsa.

... .. Petitioner/s

Versus

1. The B.N.Mandal University, Madhepura, Through Its Registrar.
2. The Vice- Chancellor. B.N. Mandal University, Madhepura.
3. The Registrar, B.N. Mandal University, Madhepura.
4. The Financial Advisor, B.N. Mandal University, Madhepura.
5. The Finance Officer, B.N. Mandal University, Madhepura.
6. The Principal, R.M. College, Saharsa, District- Saharsa.
7. The State Of Bihar, Through The Principal Secretary, Education Department,
Government Of Bihar, Patna.
8. The Director, Higher Education Department, Govt. Of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Purushottam Kumar Jha, Advocate
For the Respondent/s	:	Mr. Anil Kumar Sinha, GA-1
For the University	:	Mr. Raju Giri, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
Date : 05-11-2018

This matter was heard by this Court and vide order dated 31.06.2014 after hearing Principal Additional Advocate General, the Court noted the brief facts of the case granting one more opportunity to the State to complete the pleading.

2. After the order dated 31.3.2014 the State has not bothered to file any affidavit in the instant case.

3. The issue with regard to sanction of post on the ground of affiliation is now no more res integra after the report of Justice S.B. Sinha (Rtd.) Commission in Krishnanand Yadav case was accepted by the Apex Court. In that view of the matter,



the Court has difficulty in holding that on grant of affiliation one post was sanctioned in the subject in the college in view of the letter dated 30.6.1979 which was issued by the State Government keeping in mind the procedural delay in sanctioning the post. So far as the present writ petitioner is concerned, the issue as to the counting seniority and recognition of the initial date of entry of petitioner is now covered by the report of Mr. Justice S.C. Agrawal Commission the said report is conclusive.

4. From Annexure-2 it is apparent that 5.11.1989 was taken as date of eligibility and date of the appointment of the petitioner as Lecturer in the recommended category in the subject Commerce. The University accepting 5.11.1981 as the date of entry and eligibility of the petitioner granted promotion on completion of 10 years vide Annexure-6 page 35. The notification granting promotion with effect from 15.11.1991 is still intact and it has not been modified as yet but unfortunately the benefit of grant of promotion to the post of Reader has not been allowed to the petitioner.

5. Learned counsel appearing on behalf of the University submitted that the University has granted promotion treating the date of entry in the light of the report of Justice



Agarwal Commission and thus University holds that the petitioner would be entitled to grant of promotion as Reader with effect from 15.11.1991 and University has not modified, recalled or withdrawn the notification dated 5.9.2012 granting promotion to the petitioner to the post of Reader with effect from 15.11.1991. He submits that the difficulty is that the State Government being pay master is not releasing the fund for grant of monetary benefit of such promotion and as such appropriate direction may be issued to the State Government.

6. Mr. Raju Giri, learned counsel appearing on behalf of the University has drawn attention to this court to the order dated 31.3.2014 to highlight that the State Government is raising dispute as to the initial date of entry in the service and as such the State Government has not released the appropriate fund for payment of salary on promotion of the petitioner as Reader.

7. Considering the fact that the decision of the Agarwal Commission has attained finality after the judgment of the Apex Court in Mahasangh case and the University has acted upon the recommendation of the Justice Agrawal Commission which manifest the date of entry and eligibility as 15.11.1981.

8. In view of the above, the Court does not find any



infirmity in the order granting promotion to the petitioner as Reader with effect from 15.11.1991.

9. It is now obligation of the State Government to provide adequate fund to the University so that the monetary benefit admissible to the petitioner on grant of promotion vide Annexure-6 with effect from 15.11.1991 as Reader may be made available to the petitioner at the earliest.

10. Necessary decision allocating the appropriate fund for payment of monetary benefit on account of promotion of the petitioner as Reader with effect from 15.11.1991 may be taken by the respondent State within a maximum period of four months from today and on receipt of such fund, the University is required to provide monetary benefit to the petitioner within a further period of one month.

11. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.11.2018
Transmission Date	

