

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15111 of 2010

Videh Kishori Kumari @ Videh Kishori Thakur @ Videh Kishori Kumari
Thakur D/O Late Harbansh Pd. Singh Presently Posted As Professor,
Department Of Physics, M.D.D.M. College, Muzaffarpur, Residing At Hari
Niwas, Opposite B.H.E.L. Colony, P.O.- Sadar, P.S.- Sadar, Distt.-
Muzaffarpur Petitioner/S

Versus

1. Chancellor Of Universities Raj Bhavan, Patna
2. Vice-Chancellor, Bhim Rao Ambedkar Bihar University, Muzaffarpur
3. Bhim Rao Ambedkar Bihar University Through Registrar, Muzaffarpur
4. Registrar, Bhim Rao Ambedkar Bihar University, Muzaffarpur
5. State Of Bihar Through The Principal Secretary Human Resources
Development Department, Govt. Of Bihar, Patna
6. Principal Secretary Human Resources Development Department, Govt. Of
Bihar, Patna
7. Director, Higher Education, Govt. Of Bihar, Patna
8. Principal Secretary Department Of Finance, Govt. Of Bihar, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh
For the State : Mr. Ramashray Roy, AC to AAG 11

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 13-09-2018

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

2. Initially, the writ petition was filed for quashing of
the notice dated 02.12.2009 issued by the respondent-Registrar,
B.R.A. Bihar University, whereby after three decades of
appointment, issue as to the date of entry into the service of the
petitioner was reopened on the basis of the report of the Shyam Lal
Committee.

3. During the pendency of the writ petition certain
development took place which led the petitioner to file I.A. No.
3539 of 2016 for amendment of the writ petition.



4. During the pendency of the writ petition the issue as to fixation of the initial date of appointment of teachers regularized in terms of the Regularization Statute of the Chancellor was referred to a one-man Committee of Justice S.N.Jha (Retd.) to identify the initial date of entry in service at the touchstone of regularization statutes of the Chancellor. Justice S.N. Jha (Retd.) Committee examined the matters with regard to regularization and counting of initial date of appointment and passed order on the claim of the petitioner fixing 1.1.1981 as initial date on the ground that the petitioner has not been able to produce the advertisement for appointment.

5. In the I.A. No. 3539 of 2016 filed on behalf of the petitioner advertisement dated 1.8.1976 was enclosed as Annexure-7 to suggest that the advertisement was published and thereafter petitioner was appointed. The advertisement was not then available and as such advertisement could not be placed before Justice S.N. Jha Committee.

6. Considering the averments made in the interlocutory application, the prayer is allowed and the relief sought for in the I.A. No. 3539 of 2016 is to be treated as part of the writ petition.

7. Today, a supplementary affidavit has been filed on behalf of the petitioner wherein statement has been made that on



1st October, 1975, advertisement was issued for appointment in the college in question and the petitioner was appointed as lecturer following the selection process after advertisement. In para-8 of the supplementary affidavit statement has been made that those who were appointed along with the petitioner, were considered by Justice S.N. Jha (Retd.) Committee and they have been granted the benefit of their initial date of appointment as 10.2.1976 but in the case of the petitioner, the committee declined to grant the benefit of initial date of appointment as 10.2.1976 and declared the date of initial appointment of the petitioner as 1.1.1981.

8. Learned counsel for the petitioner submits that for the ends of justice this Court has to consider two important facts which were not placed before the Committee while considering the initial date of appointment in relation to the teachers regularised under the Regularization Statute; firstly, that there was advertisement for the appointment of teachers on the basis of which the petitioner was appointed in the college in question along with others. Secondly, similarly circumstanced others were granted benefit of initial date of appointment as 10.02.1976 but in the case of the petitioner the initial date was fixed as 1.1.1981 on the basis of non-production of advertisement.



9. Learned counsel for the respondents submits that the decision of Justice S.N.Jha Committee is final and binding and the petitioner cannot question the determination by the said Committee as the petitioner has failed to produce those documents or materials before the Committee and as such there is no infirmity in the finding of Justice S.N. Jha Committee.

10. Justice S.N. Jha (Retd.) Committee was constituted by the Court for the purpose of enquiry into the fact and to submit report so that the Court may finally decide the claim of the teachers for counting of seniority and promotion and initial date of appointment. During the pendency of the writ petition the decision was taken by the Committee and as such this Court has the jurisdiction to decide whether the report of Justice S.N.Jha Committee is conclusive on the point of date of regularization of the petitioner or not. Noticing the fact that there was advertisement and that the advertisement was not placed before the Committee and finding was recorded, now in the present case the advertisement has been placed by way of interlocutory application, the Court finds that the decision of Justice S.N. Jha Committee was based on the available materials and since no advertisement was placed before the Committee and as such the finding was recorded in the absence of document placed before the Committee.



When the same is placed before this Court, the Court is of the view that the findings of Justice S.N.Jha Committee was based on unavailability of document and when the document is made available, afresh finding has to be recorded. Accordingly, the Court holds that there was advertisement for appointment of the petitioner and others and that the petitioner and other similarly circumstanced teachers were appointed in the college following the same advertisement and selection process and under such circumstance for grant of benefit of regularization from initial date of appointment, the Court is of the view that interest of justice requires that in this case the same initial date of appointment has to be taken into consideration and there cannot be two different considerations for the similarly circumstances teachers appointed in the college in question on the basis of same advertisement and same selection process.

11. Accordingly, the respondents are directed to treat the date of initial appointment of the petitioner as 10.2.1976 and grant all consequential benefits. The respondents have to work out the entitlement of consequential benefits treating the date of appointment as 10.2.1976. The entire exercise must be completed within a maximum period of four months from the date of receipt/production of a copy of this order.



12. With the aforesaid, the writ petition stands allowed.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.09.2018
Transmission Date	

