

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7090 of 2015

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Dr. Ajoy Kumar Son of Late Ram Abnish Ojha, R/o Mohalla - Indira Mansion, Khabra Road, P.S. - Kazi Mohammadpur, District - Muzaffarpur was working as Professor, Deptt. of Economics, L.S. College, Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary Department of Human Resource Development Bihar, Patna.
3. The Secretary, Department of Higher Education, Department of Human Resource Development, Bihar, Pat
4. The Baba Saheb Bhim Road Ambedkar Bihar University Muzaffarpur represented through its Registrar.
5. The Vice - Chancellor Baba Saheb Bhim Road Ambedkar Bihar University, Muzaffarpur.
6. The Registrar Baba Saheb Bhim Rao Ambedkar Bihar University Muzaffarpur.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 8473 of 2015

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Dr. Hari Krishna Roy S/o Late Mushahar Roy, R/o MOhalla - Rewa Roiad Bhagwanpur Chatti behind Gopal Market, P.S. - Sadar, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary Department of Human Resource Development Bihar, Patna.
3. The Secretary, Department of Higher Education, Human Resource development Department, Bihar Patna.
4. The Baba Sahab Bhim Rao Ambedkar Bihar University Muzaffarpur represented through its Registrar.
5. The Vice - Chancellor, Baba Sahab Bhim Rao Ambedkar Bihar University, Muzaffarpur.
6. The Registrar Baba Sahab Bhim Rao Ambedkar Bihar University Muzaffarpur.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 7090 of 2015)



For the Petitioner/s : Mr. Manoj Kumar Manoj, Adv.
For the Respondent/s : Mr. Apurv Harsh, AC to SC-28
For the B.R.A. University : Mr. Arabind Nath Pandey, Adv.
(In Civil Writ Jurisdiction Case No. 8473 of 2015)
For the Petitioner/s : Mr. Manoj Kumar Adv,
For the B.R.A. : Mr. Rakesh Kumar Singh, Adv.
For the Respondent/s : Mr. Jay Prakash Sharma, AC to GP-21

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 14-08-2019 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

2. C.W.J.C. NO. 7090 of 2015 was filed by Dr. Ajoy Kumar whereas C.W.J.C. NO. 8473 of 2015 was filed by Dr. Hari Krishna Roy. Since both the writ applications involve similar question of facts and law, with the consent of parties both the writ applications are disposed of by this common order.

3. Both the petitioners of C.W.J.C. No. 7090 of 2015 and C.W.J.C. NO. 8473 of 2015 are aggrieved by the decision of Hon'ble S.N. Jha (Retired) Committee, the committee was constituted pursuant to the order of this Court to examine the validity of initial entry followed by regularization under the regularization statute. In case No. 29 of 2014, the claim of the petitioner Dr. Ajoy Kumar and Dr. Hari Krishna Roy was considered by Justice S.N. Jha (Retired) the Justice Jha committee held out that the appointment of the petitioner no.1 Dr. Ajoy Kumar was for a fixed period it was later on extended till vacation. However, he continue in the service on the basis of



status quo order that does not satisfy the requirement of valid appointment and as such petitioner of C.W.J.C. No. 7090 of 2015 is not entitled to counting his past service prior to the date of regularization under the Regularization Statute, so far as petitioner of C.W.J.C. No. 8473 of 2015 is concerned, Justice Jha committee came to a conclusion that no particular of interview etc. have been brought on record and as such the appointment of the Dr. Hari Krishna Roy was made on temporary basis and he was not holding valid appointment, therefore, not entitled to counting past service.

4. Learned counsel appearing on behalf of petitioner has brought to the notice of Annexure-1, 2 and 3 to substantiate that there was valid selection process after advertisement, constitution of selection committee and also through appropriate selection process. Since, the petitioners have been appointed after following the selection process as evident as Annexure-1, 2 and 3. The Court is of the view that the Justice S.N. Jha committee has committed error in rejecting the claim of the petitioner.

5. Considering the aforesaid fact emerges from Annexure-1, 2 and 3, the Court is of the considered view that the petitioners were appointed after following the selection



process i.e. after advertisement, scrutiny by selection committee and selection process and as such petitioner of the two writ petitions deserve counting of past service before regularization.

6. Accordingly, the writ applications are allowed. The respondents as well as State is directed to treat the initial date of appointment of the petitioner for the purposes of granting benefit of seniority i.e. on 22.2.1976 in C.W.J.C. NO. 7090 of 2015 and on 21.1.1977 in C.W.J.C. NO. 8473 of 2015.

7. Since the petitioner of both the writ petitioners have retired, the respondents are directed to take appropriate decision granting the benefit of seniority and all consequential benefits at the earliest including the revision of pension within a period of three months from the date of receipt/production of copy of this order.

8. With the aforesaid, the present writ application is allowed and it is disposed of.

(Anil Kumar Upadhyay, J)

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