

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8319 of 2022

Dr. Satya Ratan Prasad Singh Son of Ramashish Prasad Singh, Resident of
Maharani Road, Naya Godown, District-Gaya ... Petitioner
Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Higher Education, Patna.
4. The Magadh University, Bodh Gaya through its Registrar.
5. The Vice-Chancellor, Magadh University, Bodh Gaya.
6. The Registrar, Magadh University, Bodh Gaya.
7. Dr. Kishore Kumar, father name not known, Professor and Head P.G. Deptt. of Psychology, Magadh University, Bodh Gaya. ... Respondents

Appearance :

For the Petitioner	:	Mr.Sunil Kumar Singh, Adv.
For the State	:	Mr.Subhash Chandra Mishra (Sc 16)
For the University	:	Mr. Akshansh Ankit, Adv.
For Respondent no. 7	:	Mr. Rama Kant Sharma, Sr. Adv. with Mr. Rajesh Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 30-11-2022

Heard the parties.

2. The petitioner by way of this writ petition assails the notification, dated 16.04.2022, issued by the Registrar, Magadh University whereby respondent no. 7 has been appointed on the post of Head of the Department of Psychology, Magadh University, Boddh Gaya.

3. The counsel for the petitioner submits that the petitioner is the senior most Professor of the Department as on today. He submits that initially he was promoted to the post of Lecturer treating his date of confirmation as 08.01.1987. However, in terms of an order passed by this Court and the



Supreme Court, Justice S.C. Agrawal Commission was formed which made recommendations relating to the date of absorption and confirmation of the various Lecturers working in the University and accordingly in terms of the recommendations made by the Commission his date of absorption was treated as 15.07.1985 and accordingly the date of confirmation was rectified as 16th July, 1985, by the University by its order dated 12th February, 2020.

Learned counsel submits that treating his fictional date of confirmation dated 08.01.1987, the petitioner was promoted as a Reader as well as Professor on merit basis. Learned counsel submits that so far as respondent no. 7 is concerned, he too was found to have been wrongly given date of confirmation as 30th April, 1986 whereas after the recommendation of Hon'ble Mr. Justice S.C. Agarwal Committee the date of absorption of respondent no. 7 was treated as 25th September, 1987, and rectified date of confirmation was treated as 26th September, 1985. On the basis of the revised rectified date of confirmation the petitioner stands senior to the respondent no. 7 on the post of Lecturer. Since the promotions were made on the basis of the number of years of service rendered as a Lecturer, the effective date of promotion would also have to be consequently changed but the University did not conduct the said exercise.

4. Be that as it may, the petitioner was handed over the



charge of Head of the Department after the retirement of the earlier Head of the Department, Dr. Devendra Prasad Singh, and the petitioner assumed the charge of the Head of the Department of Psychology on 31st January, 2022.

Learned counsel submits that after having remained as Head of the Department for about three months, an order has been passed on 16th April, 2022, appointing respondent no. 7 as Head of the PG Department of Psychology, Magadh University, which could not have been passed by the respondents as it would amount to reverting the petitioner from the higher post which he was holding in terms of his higher seniority.

Learned counsel has invited attention to Annexure 10 which is the revised statute for the scheme of rotation of headship in the department of University colleges which provides that for headship in PG Department first four senior most teachers shall essentially be posted in the Department and headship of the Department shall be rotated amongst them.

5. Keeping in view thereto, learned counsel submits that he was entitled to be granted headship of the Department instead of respondent no. 7. Learned counsel has taken this Court to the counter affidavit filed by the University wherein the University has admitted of the petitioner being granted revised date of confirmation prior to that of respondent no. 7. Learned counsel has invited the attention to paragraph 9 of the counter affidavit



wherein the University has stated as under :

“ 9 : That it is stated that the effective date of promotion of the Petitioner from the post of Lecturer to Reader is 08.01.1995 and from Reader to the post of Professor is 08.01.2003. On the other hand, effective date of promotion of the Respondent No. 7 from the post of Lecturer to Reader is 30.04.1994 and from Reader to the post of Professor is 30.04.2002. However, shifting of dates of promotion, in light of rectified absorption and confirmation dates as stated hereinabove, is still due.” (underline is mine)

6. Learned counsel submits that in view of above it is apparent that on account of the fault of the University petitioner is being treated junior to respondent no. 7 for the purpose of granting him the post of Head of the Department.

7. Per contra learned counsel appearing for the University states that the actual date of promotion would have to be taken into consideration for the purpose of granting seniority to a Professor. The pay fixation shall be of the Education Department is concerned with the change in date of confirmation and the same is to be considered subsequently by the University. As on date, since no shifting of date of promotion has been made, the respondent no. 7 is to be treated as senior to the petitioner.

8. Learned Senior Counsel appearing for respondent no. 7 submits that both the petitioner as well as the concerned respondent no. 7 were promoted on the post of Reader and



thereafter on the post of Professor vide same notification dated 30th August, 2012. In the said notification respondent no. 7 name is placed over and above that of the petitioner and that the effective date of promotion on the post of Reader has been shown as 30th April, 1994, while that of the petitioner is shown as 08.01.1995. He further submits that the post of Professor too the effective date of promotion has been mentioned as 30th April, 2002, while that of the petitioner has been mentioned as 08.01.2003. Thus, the petitioner is junior to respondent no. 7. He submits that the order dated 30th August, 2012, was never challenged by the petitioner and based on the effective date of promotion of the respondent no. 7 he was treated senior to the petitioner and was granted headship of the PG Department of Psychology. The order of granting him headship therefore does not require any interference by this Court.

9. Having noticed the respective contentions of the petitioner as well as the contesting respondent, this Court finds that the University has not conducted an exercise of preparing inter se seniority of the Professors of PG Department of Psychology before issuing orders of appointing respondent no. 7 as Head of the Department. Once, the date of confirmation has been changed of both petitioner as well as respondent no. 7 in 2020 consequential action was required to be done by the Magadh University. On the basis of their inaction, they can not be allowed to take advantage of changing and removing Senior Professors from the post which



they are holding.

Admittedly, the petitioner had already been handed over the charge of Head of the Department of Psychology which was not challenged by the respondent no. 7, there is no representation on the record by the respondent no. 7 assailing the charge of the Head of the Department being handed over to the petitioner on 31st January, 2022. No reason is coming forward from the University found in the counter affidavit as to why the impugned order was passed on 16th April, 2022, without conducting the exercise as mentioned by them in paragraph 9 of their counter affidavit as noticed above.

10. After the recommendations of Hon'ble Mr. Justice S.C. Agarwal Committee, once the date of confirmation of all the existing Professors and Readers has been changed from the initial date of appointment, a consequential exercise was required to be done by the University. It appears that unnecessary litigation had been forced upon the two Professors who are before this Court on account of the inaction of the University in passing the consequential orders after the order dated 12.02.2020 was passed. This Court is also not satisfied with the reply of the University stating that the order of 12.02.2020 is only with respect to making pay fixation.

11. Keeping in view above, this writ petition deserves to be allowed and is accordingly **allowed** and the notification, dated



16.04.2022, is quashed and set aside with direction to continue the petitioner as Head of the Department of Psychology and further conduct an exercise for preparing inter se seniority of all the Professors and Readers of all the Departments of the University and accordingly pass revised orders. The exercise shall be conducted positively within a period of one month from today.

12. The writ petition is allowed. No costs.

(Sanjeev Prakash Sharma, J)

Shamshad/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.12.2022
Transmission Date	NA

