

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10609 of 2011

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ASHWINI KUMAR JHA S/O Late Jay Narain Jha R/O M/H-Gangjala, Ward
No.15, Saharsa, P.S. Distt.-Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna.
2. The B.N. Mandal University, Madhepura through its Registrar.
3. The Vice-Chancellor, B.N. Mandal University, Madhepura.
4. The Registrar, B.N. Mandal University, Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate
For the Respondent/s : Mr. Dinbandhu Singh, GP9

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

- 8 09-10-2023 1. No one appears for the petitioner. Learned counsel
for the respondents are present.
2. No one appeared on behalf of the petitioner on
3.10.2023 also.
3. The petitioner has filed the instant application for
the following reliefs:

*“That the petitioner prays for issuance of an
appropriate writ preferably in the nature of
Mandamus Commanding and directing the
Respondents concerned to make necessary
correction in the date of eligibility of the petitioner
as Lecturer who is teaching employee of R.M.
College, Saharsa and without any valid reason his
date of eligibility has been shown later than his*



entitlement and to consider the case for his time bound promotion also. And/or any other writ/writs for granting any other relief/reliefs for which the petitioner is found to be entitled in the facts and circumstances of this case.”

4. Learned counsel for the respondent-State referring to paragraph nos. 11,12 and 13 of the counter affidavit filed on behalf of the respondent no.1 submits that from the report of the Justice Agrawal Commission it transpires that the date of eligibility of all including the petitioner was examined and the Hon'ble Commission has mentioned the date of eligibility of the petitioner as 9.5.1988, meaning thereby that on the date of appointment 1.1.1982 the petitioner was not having the requisite qualification.

5. Paragraph nos. 11, 12 and 13 of the counter affidavit is quoted hereinbelow for ready reference:

“11) That Annexure-IIIA of the Justice Agrawal Commission Report, it appears teachers that there were two who were working on the date of conversion of the College into constituent unit. From Annexure-IIIB of the Justice Agrawal Commission Report, it that the petitioner was is evident not having requisite qualification on the date of appointment but he became eligible after the appointment and accordingly his date of eligibility has been fixed as 09.05.1988 Hon'ble Justice S.C. Agrawal.



*Photocopy of annexure-III A and II B of the Justice Agrawal Commission Report are annexed herewith and marked as **Annexure-C and D** to this counter affidavit.*

12) That at this stage, it is relevant to state here that Annexure-3B of the Justice Agrawal Commission Report regarding the list of teachers who are eligible to be considered for absorption wherein the date of appointment as well as the date of eligibility of the teachers have been specifically mentioned. In the said annexure the date of appointment of the petitioner has been mentioned as 01.01.1982 whereas the date of eligibility of the petitioner has been mentioned as 09.05.1988 meaning thereby that on the date of appointment i.e. on 01.01.1982 the petitioner requisite was not having the requisite qualification and he became eligible for appointment on 09.05.1988.

13) That in view of facts stated above, the date of eligibility as fixed by Hon'ble Justice S.C. Agrawal in his report cannot be shifted also in view of Judgment passed by Hon'ble Supreme Court in Civil Appeal No. 6098 of 1997 wherein it has been directed that the report of the Commission of enquiry of Hon'ble Justice S.C. Agrawal, is accepted and all objections filed against the said report are rejected. Thus the



*petitioner is also not entitled to be considered
for time bound promotion.”*

6. In view of learned counsel for the petitioner not appearing on the second consecutive date also and in view of the averments made in the counter affidavit as quoted hereinabove, the Court finds no merit in the instant application and the same is dismissed.

(Partha Sarthy, J)

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