

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8197 of 2023**

Dr. Rajesh Kumar S/o Sri Narendra Kumar, Resident of X-12, Ashiana Nagar, Phase-1, P.S- Rajiv Nagar, District- Patna. At present Lecturer (contractual appointment), D.N.S. Regional Institute of Co-operative Management, Shastri Nagar, Patna-800023, under the aegis of National Council for Co-operative Training, New Delhi.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Cooperation, Government of India, New Delhi.
2. The Additional Secretary, Ministry of Cooperation, Govt. of India, Cum-President, Executive Council, National Council for Co-operative Training (N.C.C.T.), 3-Siri Institutional Area, August Kranti Marg, New Delhi-16.
3. The Secretary, National Council for Co-operative Training (N.C.C.T.), 3-Siri Institutional Area, August Kranti Marg, New Delhi-16.
4. The Joint Director (Personnel), National Council for Co-operative Training (N.C.C.T.), 3-Siri Institutional Area, August Kranti Marg, New Delhi-16.
5. The Director, D.N.S. Regional Institute of Co-operative Management, Shastri Nagar, Patna-800023.

... .. Respondent/s

**Appearance :**

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| For the Petitioner/s | : | Mr. Arbind Kumar Singh, Adv.                              |
| For the Respondent/s | : | Mr. Radhika Raman (C.G.C.),<br>Mr. Ram Tujabh Singh, Adv. |

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**  
**ORAL ORDER**

2      13-06-2023                      Heard Mr. Arbind Kumar Singh, learned counsel appearing on behalf of the petitioner, Mr. Radhika Raman and Mr. Ram Tujabh Singh, learned counsel appearing on behalf of the respondents.

2. Present writ petition has been filed for following reliefs:-

*“(i). For issuance of writ in the nature of mandamus or any other*



*appropriate writ/ order/ direction directing Respondents authorities to regularise the service of petitioner on the post of Lecturer, pursuant to law laid down by Hon'ble Apex Court, as the petitioner is continuously discharging his duty as Lecturer on sanctioned vacant post, since the date of his appointment/joining on said post on 06/11/2001, on contractual basis, pursuant to Office order issued by Respondent no.5 vide letter no. 2(xxviii)/Estt/78/ dated 03/11/2001.*

*(ii). For issuance of an appropriate writ / order / direction commanding Respondent authorities to fix and make payment of difference amount of arrear as well as current salary at the rate of salary fixed for the post of Lecturer working in regular pay scale as the petitioner having requisite qualification is performing similar work on a duly vacant sanctioned post on consolidated salary since his appointment by competent authority by applying all criteria of employment, and the same being in blatant disregard and violation of articles 14, 16 & 21 of the Constitution of India.*

*(iii). Any other relief that the petitioner may be found to be entitled to in the facts and circumstances of the present case.”*

3. Mr. Arbind Kumar Singh, learned counsel appearing on behalf of the petitioner submits that the petitioner has made several representation before the appropriate



authorities from time to time for his regularization on the ground that he was appointed in the year 2001 and had joined the institution namely D.N.S. Regional Institute of Cooperative Management, Patna and he is successfully discharging his duty as Lecturer/Professor till date.

4. Learned counsel submits that the petitioner has been also acknowledge by the Head of the Institution including the Regional Director, Director and the Joint Director, National Council for Cooperative Training. The petitioner had undergone several training programmes from time to time. In spite of the satisfactory service record of the petitioner and the fact that he is working on the sanctioned post continuously, still he being engaged on contract basis. The petitioner has been continuously serving the post of Lecturer for nearly 22 years and as on date he has been receiving only remuneration amount of Rs. 40,000/- lump sum.

5. Learned counsel in support of his case has relied upon the Judgment passed by the Apex Court in the case of ***Secretary, State of the Karnataka Vrs. Uma Devi, (2006 (4) SCC 1)*** and has relied particularly on Paragraph 53 of the said Judgment which is reproduced inter alia hereinafter:-

*“53. One aspect needs to be clarified. There may be cases where*



*irregular appointments (not illegal appointments) as explained in S.V. Narayanappa [(1967) 1 SCR 128 : AIR 1967 SC 1071] , R.N. Nanjundappa [(1972) 1 SCC 409 : (1972) 2 SCR 799] and B.N. Nagarajan [(1979) 4 SCC 507 : 1980 SCC (L&S) 4 : (1979) 3 SCR 937] and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases aboveresferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there*



*should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.”*

6. He further submits that the petitioner comes under the exception and has been continuously discharging his duty on the sanctioned post of Lecturer and as such his case is not only required to be considered sympathetically, but also in light of the recent Judgment reported in case of ***Narendra Kumar Tiwari & Ors. Vrs. State of Jharkhand & Ors. ( (2018) 8 SCC 238)*** in which it has inter alia been held as under:-.

“8. If a strict and literal interpretation, forgetting the spirit of the decision of the Constitution Bench in *Umadevi (3)* [*State of Karnataka v. Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , is to be taken into consideration then no irregularly appointed employee of the State of Jharkhand could ever be regularised since that State came into existence only on 15-11-2000 and the cut-off date was fixed as 10-4-2006. In other words, in this manner the pernicious practice of indefinitely continuing irregularly appointed employees would be perpetuated contrary to the intent of the Constitution Bench.

9. The High Court as well as the State of Jharkhand ought to have considered the entire issue in a contextual perspective



and not only from the point of view of the interest of the State, financial or otherwise — the interest of the employees is also required to be kept in mind. What has eventually been achieved by the State of Jharkhand is to short circuit the process of regular appointments and instead make appointments on an irregular basis. This is hardly good governance.

**10.** Under the circumstances, we are of the view that the Regularisation Rules must be given a pragmatic interpretation and the appellants, if they have completed 10 years of service on the date of promulgation of the Regularisation Rules, ought to be given the benefit of the service rendered by them. If they have completed 10 years of service they should be regularised unless there is some valid objection to their regularisation like misconduct, etc.

**11.** The impugned judgment and order [*Anil Kumar Sinha v. State of Jharkhand*, 2016 SCC OnLine Jhar 2904] passed by the High Court is set aside in view of our conclusions. The State should take a decision within four months from today on regularisation of the status of the appellants. The appeals are accordingly disposed of.

**12.** We may add that that it would be worthwhile for the State of Jharkhand to henceforth consider making regular appointments only and dropping the



idea of making irregular appointments so as to short circuit the process of regular appointments.”

7. Learned counsel has relied upon paragraphs 8 to 12 of the above referred Judgment passed by the Apex Court in support of his claim for regularization.

8. Learned counsel submits that the petitioner seeks to file a comprehensive representation before the respondent nos. 2 and 3 alongwith all the relevant records.

9. Mr. Ram Tujabh Singh, learned counsel appearing on behalf of the Union of India has no objection to the above effect.

10. Having considered the submission made on behalf of the rival parties and specific prayer of the petitioner that he is willing to file a comprehensive representation before the concerned authorities along with all the Judgments and law laid down by the Apex Court in support of his claim of his regularization in service on permanent post of Lecturer.

11. The present writ petition is disposed of with a direction to the concerned respondents to consider the case of the petitioner for being regularized in light of the law laid down by the Apex Court and this Hon’ble Court after giving him due opportunity of hearing and the concerned authority is required



to pass reasoned order within a period of six weeks from the date of production of a copy of this order considering the fact that the petitioner has already crossed the age of 58 years.

12. The present writ petition is accordingly disposed of.

**(Purnendu Singh, J)**

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