

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15277 of 2021

Dr. Sachidanand Singh S/o Late Rajendra Prasad resident of Anandpur, Ward No. 26, P.O.- Sudird Nagar, P.S. and District- Begusarai, presently working as Associate Professor in the Department of Chemistry, G.D. College, Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, Higher Education, Govt. of Bihar, Patna.
2. The Director, Higher Education, Govt. of Bihar, Patna.
3. The Vice- Chancellor, L.N. Mithila University, Kameshwar Nagar, Darbhanga.
4. The Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
5. The Finance Officer, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
6. The Principal, G.D. College, Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh
For the University	:	Mr. Nadeem Seraj
For the State	:	Mr. Madanjeet Kumar (Gp20)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

- 7 05-10-2023
1. Heard learned counsel for the petitioner, learned counsel appearing on behalf of the University and learned counsel appearing for the State.
 2. The present writ application has been filed for quashing of the verification made by the Pay Verification Cell of the State as well as fixation of pay scale of the petitioner,



by which the date of initial appointment and date of promotion of the petitioner on the post of Reader has been shifted from 25.01.1983 to 07.10.1985 and from 25.01.1993 to 31.08.1995 respectively. The petitioner has also prayed for a direction to the respondent authority to treat the initial date of appointment w.e.f. 25.01.1983 and date of promotion to the post of Reader w.e.f. 25.01.1993 and grant all consequential benefits thereupon to the petitioner.

3. As per the provisions prescribed in the Bihar State Universities Act, 1976, at the relevant time, only Bihar Public Service Commission was the competent authority for appointment of teachers in the universities as well as in its constituent colleges. However, it was realized that Bihar Public Service Commission was not making recommendation in time for appointment, due to which the students were suffering and the universities were also facing difficulties in completion of courses in time. In view of that situation, the State government authorized the universities to make appointment on the post of Lecturers/Teachers against the sanctioned vacant posts.
4. It is not disputed that the petitioner, along with 22 other



lecturers, were appointed by the University Selection Committee after due advertisement and following the selection process on 25.01.1983 as Lecturers in G. D. College, Begusarai (constituent college of L.N. Mithilia University, Darbhanga).

5. The services of the petitioner was confirmed by the University Selection Committee as Lecturer, Department of Chemistry w.e.f. 07.10.1985. It is also not disputed that on recommendation of the Bihar State University Service (Constituent Colleges) Service Commission, Patna and decided by the Syndicate of the University, the Vice Chancellor of the University has issued notification for promotion of the petitioner, along with other Lecturers of Chemistry, in the rank of Readers of Chemistry w.e.f. 25.01.1993 i.e. exactly after 10 years of the date of initial appointment of the petitioner.
6. Learned counsel for the petitioner submits that the University, without any valid reason, has shifted the date of initial appointment of the petitioner from 25.01.1983 to 07.10.1985 and also the date of promotion, granted to the petitioner as Reader, from 25.01.1993 to 31.08.1995. The pay of the petitioner has also been fixed on the basis of



shifting of dates i.e. 07.10.1985 and 31.08.1995, by which the petitioner is aggrieved.

7. Learned counsel next submits that shifting of date of initial appointment from the date of confirmation of the services of the petitioner as Lecturer is not permissible inasmuch as it is settled law that after confirmation of the services it is shifted back to the date of initial appointment. In this regard, learned counsel relies upon the judgment, in the cases of **B. R. Ambedkar Bihar University Teachers Assn. v. State of Bihar**, reported in **1998 (2) PLJR 103**, and **Shri L. Chandrakishore Singh v. State of Manipur and ors.**
8. He further submits that similarly situated Lecturer, who was appointed by following the same process by the University pursuant to the same advertisement published in the year 1983, whose name is appearing, along with the petitioner, in the notification of confirmation of the services at serial no. 20, has approached this Court for similar relief in CWJC No. 8232 of 2009 and the Co-ordinate Bench of this Court, taking into consideration the averments made by the University in its supplementary counter affidavit, accepting the entitlement of the



petitioner by virtue of his appointment initially would be treated on 05.11.1982, disposed the writ petition as infructuous in view of the stand of the University.

9. Learned counsel next submits that the similarly situated person, namely, Satish Kumar Sharma, got his pay fixed on the date of initial appointment i.e. 05.11.1982 as well as by virtue of Annexure-10/1.

10. Learned counsel submits that some other similarly situated Lecturers, whose name appears at Annexure-5 series and were appointed pursuant to the same advertisement by which the petitioner was appointed, are getting salary on the basis of their pay fixation done from the date of initial appointment. The date of initial appointment and promotion in their scale have not been shifted and the petitioner is being discriminated at the hands of the University arbitrarily.

11. Mr. Nadeem Siraj, learned counsel appearing on behalf of the University, referring to supplementary counter affidavit, submits that temporary services of the petitioner was considered as per the judgment rendered by this Court in CWJC No. 5859 of 1996. Accordingly, the University determined the date of entitlement of services



of the petitioner and fixed the pay-point, which was subsequently verified by the Pay Verification Cell.

12. He further submits that in few cases, the changes were made in pursuance to the orders of the Hon'ble Justice S. N. Jha Commission, however, the petitioner never placed his claim before the Hon'ble Justice S. N. Jha Commission and as such, the claim of the petitioner made in this writ application is not maintainable.

13. He next submits that the post on which the petitioner was appointed was either available due to leave vacancy or against the vacant higher post and as such, his temporary services cannot be considered for promotion.

14. The University has rightly determined his legal and valid date of entitlement of services made on the recommendation of the University Selection Committee on substantive basis.

15. I have heard learned counsel for the parties.

16. It is not disputed that the petitioner was appointed by due selection process as Lecturer on 25.01.1983 and was promoted in the rank of Reader w.e.f. 25.01.1993. The services of the petitioner was confirmed by the University Selection Committee as Lecturer w.e.f. 07.10.1985 and as



Reader w.e.f. 31.08.1995. In the case of similarly situated person, the pay has been fixed taking into account his initial date of appointment. The initial date of appointment is not disputed and the same has been confirmed by the appointing authority, as such, the date of his initial appointment shall be reckoned for all purposes, including seniority etc.

17.The confirmation would not change the date of initial appointment of the petitioner against the substantive vacancy to a later date.

18.Accordingly, I come to the conclusion that shifting the date of initial appointment and date of promotion of the petitioner on the basis of the date of his confirmation is not permissible in law. Further, the similarly situated Lecturers/Teachers have been given the benefits on the basis of their pay fixation done from the date of initial appointment.

19.Accordingly, the respondent authorities are directed to treat the initial date of appointment of the petitioner i.e. 25.01.1983 and date of promotion to the post of Reader w.e.f. 25.01.1993 and the same be reckoned for grant of all consequential benefits to the petitioner.



20.The benefits so calculated shall be paid within a period of two months from the date of receipt/production of the copy of this order.

21.In the result, this application is allowed.

(Anil Kumar Sinha, J)

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