

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10202 of 2019

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Dr. Kamala Kumari W/o Dr. Awadhesh Kumar Resident of In Front of S.D.O.
House, Damuchak, Bhagwanpur, P.S.-Bhagwanpur, District-Muzaffarpur, Pin-
842001

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education
Department, Bihar, Patna
2. B.R. Ambedkar Bihar University, Muzaffarpur through its Registrar
3. Vice Chancellor, B.R. Ambedkar Bihar University, Muzaffarpur
4. Registrar, B.R. Ambedkar Bihar University, Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Abhinav Srivastava
For the State	:	Ms. Binita Singh (SC 28)
For the University	:	Mr. Indrajesh Kumar

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER
C.A.V.

Date : 06-02-2024

The petitioner, being aggrieved by the order, dated 10.02.2015, passed by One-Man Committee of Hon'ble Justice (Retd.) S. N. Jha, whereby it has been held that the seniority of the petitioner shall be reckoned with effect from 01.01.1981 and not from the date of her initial appointment, i.e. 22.12.1978, has filed the present writ application for quashing of the aforesaid order, with further direction to the respondent authorities to continue and treat the initial date of appointment of the petitioner as 22.12.1978



and to extend all consequential benefits to her as she may be found entitled.

2. The brief facts of the case is that on 05.10.1977, an advertisement was published by the Registrar of the erstwhile University of Bihar, Muzaffarpur, inviting applications from eligible candidates for appointment as Lecturers on temporary basis in different subjects, including Philosophy, in the prescribed pay scale and other allowances.

3. The petitioner submitted her application for the post of Lecturer in the subject of Philosophy and participated in the interview conducted by the Selection Committee, constituted by the University. Notwithstanding the fact that the name of the petitioner was recommended by the Selection Committee for appointment on the post of Lecturer in Philosophy, another candidate, namely, Smt. Manorma Kumari, was appointed against the post of Lecturer.

4. The petitioner filed representation before the Hon'ble Chancellor of the Universities raising her grievance that despite recommendation in her favour, another person has been appointed. The Hon'ble Chancellor, vide order, dated 29.11.1978, remanded the matter to the Vice Chancellor of the University, who was



authorized to take a decision after assessing the merit of different candidates afresh and pass appointment order.

5. The Vice Chancellor, vide Appointment Notification, dated 22.12.1978, terminated the services of Smt. Manorma Kumari from the post of Lecturer in Philosophy at M.J.K. College, Bettiah and appointed the petitioner and posted her at M.J.K. College, Bettiah in place of Smt. Manorma Kumari. The Appointment Notification of the petitioner further says that for the time being, the petitioner would join at L. S. College, Muzaffarpur, in the leave vacancy chain of Smt. Nirmala Kumari Jha, who has proceeded on leave for a short period of three months and on her return, the petitioner will join M.J.K. College, Bettiah.

6. Further case of the petitioner is that subsequently vide Office Order of the University, dated 20.03.1979, the Appointment Notification, dated 22.12.1978, was partially modified and the services of the petitioner, in the capacity of Lecturer, was directed to be retained at L. S. College, Muzaffarpur, against the vacant post of Reader, in the Department of Philosophy. Although the petitioner had been appointed against the post of Lecturer in Philosophy and was posted at M.J.K. College, Bettiah, she was retained at L. S. College, Muzaffarpur, in the capacity of Lecturer in Philosophy, where she was allowed to



continue on the sanctioned vacant post of Reader. Subsequently, in terms of the provisions under the Statute regarding regularization of services of purely temporary Lecturers and on the basis of report submitted by the Committee, by the orders of the Hon'ble Chancellor of the Universities, the services of a number of persons, appointed as Lecturers, who had completed 24-months services on 31.12.1980 were decided to be regularized and amongst other persons, the name of the petitioner also find place in the list of teachers, working at L. S. College, Muzaffarpur, as contained in the memorandum, dated 07.08.1983.

7. Vide, Notification, dated 25.02.1984, issued by the University, services of a number of temporary Lecturers, working in different subjects in the services of the University were absorbed and amongst other persons, the name of the petitioner also find place in the list of teachers, who has been absorbed. The petitioner has been absorbed against the post of Lecturer in Philosophy in B. P. S. College, Bhorey.

8. The petitioner was granted time-bound promotion against the post of Reader in due time, i.e. with effect from 22.12.1988, in terms of the provisions of the Statute regarding time-bound promotion. Vide Notification, dated 22.04.1997, the petitioner was granted promotion on the post of University



Professor in terms of the Statute regarding the time-bound promotion.

9. By Office Order, dated 02.07.2010, the date of absorption of the petitioner as Lecturer was shifted to 01.01.1981 in place of 22.12.1978. The said order was assailed by the petitioner, along with similarly situated other persons, before this Court, in CWJC No. 11307 of 2010.

10. By Office Order, dated 09.02.2012, issued by the University, the salary of the petitioner was fixed upon grant of promotion to her in the rank of Professor under the Merit Promotion Scheme and the pay fixation statement would demonstrate that the initial date of appointment of the petitioner in the capacity of Lecturer has clearly been mentioned as 22.12.1978. The date of promotions granted in the rank of Reader as well as University Professor in the services of the University has also been mentioned therein.

11. By order, dated 18.12.2013, passed by this Court, in CWJC No. 10032 of 2009, a One-Man Committee of Hon'ble Justice (Retd.) S. N. Jha was constituted to determine the qualifying period of service of University Teachers, whose date of regularization of services, under different Universities within the State of Bihar, had been shifted and in the light of the aforesaid



order, a notice, dated 12.01.2014, was issued by the Committee to the aggrieved teachers to inform them to file their objections. In furtherance of the same, the petitioner submitted her objection before the Committee and the Hon'ble Committee, vide its order, dated 10.02.2015, held that the seniority of the petitioner has rightly been reckoned from 01.01.1981 and the same did not warrant any intervention.

12. In the mean while, CWJC No. 11307 of 2010, filed by the petitioner and similarly situated other persons, was disposed vide order, dated 18.09.2018, observing that the parties would be at liberty to challenge the report submitted by the Committee, by way of a fresh writ application.

13. Hence, the present writ application.

14. Learned Counsel for the petitioner argued that it was pursuant to the advertisement published by the University and after full-fledged selection process, the petitioner was appointed on the post of Lecturer in Philosophy on 22.12.1978.

15. While passing the impugned order, the One-Man Committee failed to appreciate the fact that the services of the petitioner was duly absorbed with effect from 22.12.1978 after taking note of various facts and circumstances relating to her case and also that her initial appointment against the vacant sanctioned



post in M.J.K. College, Bettiah, did not suffer from any infirmity whatsoever in the eyes of law. It was on the basis of the decision taken by the competent authority in the University that the petitioner was directed to continue in the capacity of Lecturer in Philosophy at L. S. College, Muzaffarpur, against the sanctioned vacant post and her absorption had also been done against the sanctioned post available in the constituent unit of the University. The promotion to the petitioner was given treating her initial date of absorption as 22.12.1978, and as such, the finding of the One-Man Committee, in the impugned order, that appointment of the petitioner was not made against the sanctioned post, is erroneous.

16. On the other hand, learned Counsel for the University submits that on completion of 24-months of service, on the post of Lecturer on temporary basis, the petitioner was absorbed on the post of Lecturer under the Second Absorption Statute. As such, reckoning the initial date of absorption of the petitioner with effect from 01.01.1981 by the One-Man Committee on the ground that the petitioner was not appointed against a vacant sanctioned post available in L. S. College, Muzaffarpur and the petitioner wanted to remain in L. S. College, Muzaffarpur, which is a premier College, is perfectly correct.



17. I have heard learned Counsel for the parties concerned and have gone through the materials available on record.

18. On 05.10.1977, an advertisement was published by the Registrar of the University inviting applications from eligible candidates for appointment as Lecturers on temporary basis in different subjects, including Philosophy, in the prescribed pay scale. The petitioner applied for the post of Lecturer in the subject of Philosophy and participated in the selection process before the Selection Committee, constituted by the University. The name of the petitioner was recommended by the Selection Committee for appointment on the post of Lecturer in Philosophy, but, in her place, one Smt. Manorma Kumari, was appointed. This led to the filing of representation by the petitioner before the Hon'ble Chancellor and the Hon'ble Chancellor, in turn, directed the Vice Chancellor to decide the claim of the petitioner. The petitioner's representation was decided in her favour and the Vice Chancellor, vide Appointment Notification, dated 22.12.1978, terminated the services of Smt. Manorma Kumari from the post of Lecturer in Philosophy in M.J.K. College, Bettiah and appointed the petitioner and posted her at M.J.K. College, Bettiah. However, due to contingency of work, the Appointment Notification of the



petitioner further says that for the time being, the petitioner would join at L. S. College, Muzaffarpur, against leave vacancy and on return, the petitioner would join M.J.K. College, Bettiah. It is the University who further issued another Notification on 20.03.1979, by which the earlier Appointment Notification, dated 22.12.1978, was partially modified and the services of the petitioner was retained in L. S. College, Muzaffarpur, and subsequently thereafter the petitioner was regularized with effect from 22.12.1978.

19. From the aforesaid facts, it emerges that the petitioner was duly appointed on a vacant sanctioned post after following the due process of selection and it was the decision of the University to take the services of the petitioner in L. S. College, Muzaffarpur, for which the petitioner cannot be faulted.

20. The petitioner was being paid regular salary from the date of her initial appointment and also got time-bound promotion/merit promotion on due dates reckoning her services with effect from 22.12.1978.

21. Considering the aforesaid discussion, I am of the considered opinion that the finding arrived at by the One-Man Committee that the appointment of the petitioner was not made against a sanctioned post inasmuch as the petitioner continued to work in L. S. College, Muzaffarpur, against the post of Reader,



which was quite unusual, is not sustainable. Since the petitioner was appointed and regularized after following the due process, accordingly, her date of initial appointment shall be treated as 22.12.1978 and the impugned notification of the University, shifting the date of her appointment with effect from 01.01.1981, is arbitrary.

22. Accordingly, the order, dated 10.02.2015, passed by One-Man Committee of the Hon’ble Justice (Retd.) S. N. Jha, is hereby quashed.

23. The University is directed to reckon the services of the petitioner with effect from 22.12.1978 and to pay all admissible consequential benefits to her as per law.

24. In the result, this writ application is allowed.

25. There shall be no order as to costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	15-12-2023
Uploading Date	06-02-2024
Transmission Date	N/A

