

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3270 of 2016

Dr. Manju Sinha D/o Late Jagdish Narain Sinha, Associates Professor,
University Department of History, B.R.A. Bihar University, Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Department of Humane Resource Development, Bihar, Patna.
3. The Secretary, Higher Education, Department of Human Resource Development, Bihar, Patna.
4. B.R.A. Bihar University, Muzaffarpur represented through its Registrar.
5. The Vice- Chancellor, B.R.A. Bihar, University, Muzaffarpur.
6. The Registrar, B.R.A. Bihar University, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Manoj
For the Respondent/s : Mr. Gp13- Nasim Yahya

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 9 02-07-2024 1. The petitioner, being aggrieved by the order, dated 18.12.2015, passed by One-Man Committee headed by Hon'ble Justice (Retired) S.N. Jha, has filed the present writ application for setting aside the impugned order and further, direction to the respondents to consider the claim of the petitioner for absorption/regularization with effect from 06.03.1980 instead of 28.02.1982 as ordered by One-Man Committee.
2. The petitioner claims that an advertisement was published by Respondent/University in english daily newspaper-



Indian Nation in 1979, inviting applications for appointment as temporary Lecturer in various subjects including History in the pay scale of Rs. 700-1600/-.

3. In pursuance of the said advertisement, the petitioner submitted her application along with requisite fee. A Selection Committee was constituted and the petitioner appeared before the Selection Committee constituted by the Vice-Chancellor. The Selection Committee interviewed the petitioner, along with others, and prepared a panel on 18.09.1979 and the same was sent to the Hon'ble Chancellor, under the signature of Vice-Chancellor, in which the name of the petitioner had been placed at Serial No. 6 in the subject of History. Subsequently, the appointment letter was issued on 28.02.1980 after having the concurrence of the Bihar Public Service Commission and the petitioner, along with others, was appointed as Lecturer on 28.02.1980. In pursuance of the appointment letter, the petitioner joined on 06.03.1980.
4. University came out with notification, dated 30.08.1991, on the basis of the third absorption/regularization statute having the date of absorption as 06.03.1980. The



petitioner was granted time bound promotion as a Reader on 06.03.1990 and retired in the year 2020. The University changed the date of absorption of the petitioner and reduced her salary also which led to the filing of Case No. 80 before the Hon'ble Justice S.N. Jha (Retired) Committee which was constituted, pursuant to the order passed by this Court in CWJC No. 10032 of 2009 by order dated 18.03.2013. The Committee was constituted for returning a qualifying period of service of the University teachers whose date of regularization/absorption of services under different University had been shifted.

5. Learned counsel relies upon judgment of **Dr. Kishore Kumar and Another v. The State of Bihar and Others (Supra) Reported in 2001 (4) PLJR 776 Paragraph 56** in which the High Court has held that in case a teacher was holding the post of Lecturer validly and legally on the date of his absorption, he would be entitled to the benefit of entire period of his service.
6. Learned counsel for the petitioner argued that the petitioner was appointed after advertisement, which was published in the newspaper paper, on a sanctioned post.



He placed reliance on the copy of the advertisement annexed at Annexure 1 to the writ application. The appointment as a Lecturer in the subject of History was made by the duly constituted Selection Committee and the appointment letter dated 28.02.1980 was issued after having concurrence from Bihar Public Service Commission which would be evident from Annexure 3. Placing Annexure 2, learned counsel submits that Vice-Chancellor sent the panel of Lecturers prepared by the Selection Committee to the Hon'ble Chancellor on 18.09.1979. Assailing the impugned order dated 18.12.2015, learned counsel submits that the petitioner took a specific point before the Hon'ble Commission that his appointment was made after advertisement and also placed the case of Professor Manjari Verma, Case No. 50 and Professor Ram Prakash, Case No. 54, whose claim was allowed by the Commission and submitted that they were appointed in the same transaction as applicable for the petitioner. But the Hon'ble Commission failed to appreciate this fact and rejected the claim of the petitioner on the ground that the petitioner has not produced any evidence in support of her submission.



7. Learned counsel next submits that on the date of hearing, before the Committee, the petitioner had produced a copy of the advertisement of 1979 in which the post of History as well as other subjects were advertised, however, Annexure 2, which is a letter forwarded by the Vice-Chancellor of the University to Hon'ble Chancellor having the panel of the selected candidates, was not available with the petitioner and he could not produce the same. The appointment letter after having concurrence of the Bihar Public Service Commission was produced before the Hon'ble Commission. The petitioner has brought all the three documents showing his date of initial appointment with effect from 06.03.1980.
8. On the other hand, learned counsel for the University submits that the Commission has rightly decided the claim of the petitioner and has fixed the date of her absorption with effect from 28.02.1982 as per the cut off date fixed in the third absorption statute. The petitioner failed to produce any document to show that the Selection Committee was constituted and the recommendation was made by the Selection Committee for appointment. The Commission in its order has discussed the parity claimed



by the petitioner with Professor Manjari Verma and Professor Ram Prakash and has found that her appointment letter was issued on 22.12.1979 whereas the appointment letter of the petitioner was issued on 28.02.1980 and accordingly, rejected the claim of the petitioner for her adsorption/regularization with effect from the initial date of her appointment.

9. I have heard the learned counsel for the parties and have gone through the materials available on record.
10. Annexure-1 is the advertisement issued for appointment on the post of temporary Lecturer published in a Hindi newspaper, Indian Nation, in February 1979. The subject of History was one of the posts which were advertised for appointment. Annexure 2 is the list of candidates prepared after interview by the Selection Committee and the same was forwarded by the Vice-Chancellor to the Hon'ble Chancellor for approval. From perusal of Annexure 2, it appears that learned Vice-Chancellor has taken note of the vacancies/posts advertised in the newspaper 'Indian Nation' and the search light and factum of the interview held between 4th and 6th July, 1979, by the Selection Committee, is very much mentioned in the said letter



having the name of petitioner as the selected candidate as well as the similarly situated Lecturers, namely Shri Ram Prakash and Ms. Manjari Verma, with whom the petitioner is claiming parity. There may be a typographical error in the month of advertisement, on part of the petitioner, due to the advertisement being very old inasmuch as the petitioner has claimed that advertisement was published in February 1979 whereas the Annexure 2 indicates that it was published in March 1979. But this is not disputed that in Annexure 2, the name of the petitioner as well as other similarly situated persons are mentioned as a candidates selected by the Selection Committee.

11. The University in its counter affidavit does not dispute this fact that the post on which the petitioner was appointed was sanctioned and that the petitioner was appointed after having been interviewed by the Selection Committee.

12. In the similar circumstances, this Court, in the case of **Dr. Kamala Kumari v. The State of Bihar and Others (CWJC No. 10202 of 2019)** and **Indra Nath Jha v. The State of Bihar and Others (CWJC No. 3464 of 2017)**,



has decided the issue regarding the date of absorption of the Lecturer.

13. In the backdrop of the aforesaid facts, it emerges that the petitioner was duly appointed on a vacant sanctioned post after the publication of advertisement in the local newspaper and following the process of selection by the Selection Committee. The petitioner was being paid regular salary from the date of her initial appointment and also got time-bound promotion on due dates reckoning her services with effect from 06.03.1980.

14. This Court in the case of **Dr. Kishore Kumar and Another v. The State of Bihar and Others (Supra)** Reported in 2001 (4) PLJR 776 has held that in case a teacher was holding the post of Lecturer validly and legally he would be entitled to the benefit of entire period of service. If the initial appointment of person concerned is valid, he/she would be entitled to retrospective seniority from the date of initial appointment notwithstanding the prescribed cut off date fixed in the absorption statute.

15. Accordingly, I am of the considered opinion that the finding arrived at by the Committee that the case of the



petitioner is not similar to Professor Manjari Verma and Professor Ram Prakash as she was not appointed in the same transaction and that there is no evidence to show that any Selection Committee was constituted and interview was held is not sustainable.

16. In the result, the order dated 18.12.2015 (Annexure 7) passed by Hon'ble Justice (Retired) S.N. Jha is set aside. The respondents are directed to reckon the service of the petitioner with effect from 06.03.1980 i.e., from the date of her initial appointment and to pay all admissible consequential benefits in accordance with law.
17. Accordingly, the present writ application is disposed with the aforesaid direction.

(Anil Kumar Sinha, J)

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