

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13053 of 2021

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Sucheta Sinha daughter of Late Ramesh Kumar Sinha, Resident of House No. - C/104, Saket Vihar Apartment, Near Shiv Mandir, P.O.- B.V. College, P.S.- Khajpura, District - Patna, Pin Code - 800014.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Agriculture Department, Bihar, Patna.
2. Bihar Animal Sciences University, Patna through its Registrar.
3. Vice Chancellor, Bihar Animal Sciences University, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhinav Shrivastava, Adv. Mr. Pushkar Bhardwaj, Adv. Mr. Aayush Abhishek, Adv.
For the State	:	Mr. Raghwanand, G.A.-11 Mr. Prabhat Kumar, A.C. to G.A.-11
For the University	:	Mr. Anjani Kumar, Sr. Adv. Mr. Alok Kumar Rahi, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 05-09-2024

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the University.

2. By filing the present writ application, the petitioner has prayed for the following reliefs:

(i) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the Bihar Animal Sciences University, Patna (hereinafter referred to as "the University") to take steps towards implementing the decision as contained in office order dated 10.03.2018 bearing memo no. 460 issued by the concerned authorities under the said University with respect to regularizing the



services of the petitioner in the capacity of Junior Research Assistant (Technical), w.e.f. 25.03.1989 under the Parasitology Department of the erstwhile Bihar Veterinary College, Patna and accordingly, extend the benefits of financial progression under the Assured Career Progression Scheme/Modified Assured Career Progression Scheme.

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the University to take steps towards considering the case of the petitioner for granting her promotion against an appropriate post, including the post of Assistant Professor/Research and Information Officer/Assistant Registrar or any other suitable post in the services of the University in accordance with the provisions contained under Clause-13.2 of the Statutes of the University.

(iii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities to take steps towards extending all the consequential benefits in favour of the petitioner after granting her promotion against a suitable post in the services of the University as per her entitlement in accordance with law.

iv) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.

3. Learned counsel for the petitioner submits that the brief fact of the case is that on 08.01.1988 the petitioner was first



appointed in the capacity of Research Associate (Parasitology) under the Indian Council of Agricultural Research Scheme in the services of the Bihar Veterinary College, Patna, which was under the administrative jurisdiction and control of Rajendra Agricultural University, Pusa, Samastipur during the relevant time. The petitioner submitted her joining at the aforesaid College on 08.01.1988 pursuant to which an office order dated 28.03.1988 was issued by the Dean and Principal of the said college with regard to the joining of the petitioner as well as for making payment of salary in her favour.

4. Learned counsel further submits that in the meantime, pursuant to an advertisement issued by the concerned authorities under the University, the petitioner and another similarly situated persons applied for consideration of their cases for appointment against the post of Senior Laboratory Technicians. Thereafter a notification dated 25.03.1989 was issued from the said College by which it was notified that the petitioner was appointed temporarily against the post of Senior Laboratory Technician under the I.C.A.R. Scheme on the approval of the Vice Chancellor of the Rajendra Agricultural University, Pusa, Samastipur.

5. Pursuant to the aforesaid notification dated 25.03.1989,



the petitioner submitted her joining in the capacity of Senior Laboratory Technician and started discharging her duties in the services of the aforesaid college under the University in accordance with law.

6. The problem arose when, all of a sudden, the services of the petitioner along with one Sri Prasoon Kumar Singh, who had also been appointed in the capacity of Senior Laboratory Technician were terminated, whereas other similarly situated persons were adjusted against vacant posts in the services of the University.

7. Aggrieved by their termination, the petitioner and the aforesaid Sri Prasoon Kumar Singh were constrained to move before this Court in CWJC No. 6406/1993, inter alia, with a prayer for setting aside the order of termination of their services and accordingly for a direction upon the concerned authorities to adjust them against suitable posts. The aforesaid CWJC No. 6406/1993 was disposed of by an order dated 24.02.1994 with a direction to the Vice-Chancellor of the then Rajendra Agricultural University, Pusa, Samastipur to consider the grievances of the petitioners, which included the present petitioner and the aforesaid Sri Prasoon Kumar Singh. Accordingly, it was considered by the then Vice-Chancellor of



Rajendra Agricultural University, Pusa and the petitioner and one Sri Prasoon Kumar Singh were adjusted against the post of Senior Laboratory Technicians at different places and their services were absorbed w.e.f. the date of issuance of the said office order dated 18.04.1995.

8. Learned counsel further submits that on 16.11.1999, an office order was issued by the concerned Authorities under the Rajendra Agricultural University, Pusa, by which the petitioner was transferred and posted against sanctioned vacant post of Technical Supervisor (Plan in the Department of Parasitology), Bihar Veterinary College, Patna with immediate effect following which the petitioner submitted her joining against the said post and started discharging her duties in accordance with law.

9. It is further submitted that in furtherance of the decision taken by the University with respect to re-designating certain posts, an office order dated 29.07.2000 was issued by the orders of the Dean-cum-Principal, Bihar Veterinary College, Patna, by which, amongst other persons, the petitioner was also re-designated as Junior Research Assistant under the Parasitology Department at Bihar Veterinary College, Patna w.e.f. 19.04.1995, the date of adjustment of the petitioner against the post of Senior Laboratory Technician by the



aforesaid order dated 18.04.1995. From time to time, the concerned authorities under the Parasitology Department at Bihar Veterinary College, Patna and other places where the petitioner had been posted, issued experience certificates in her favour.

10. In view of fulfillment of the requirements as prescribed under the relevant Statutes which were in force during the relevant time, the petitioner submitted her application for being considered for promotion against the post of Assistant Professor-cum-Junior Scientist in the services of the erstwhile Rajendera Agricultural University, Pusa, Samastipur and the same was duly forwarded by the concerned Authorities at Bihar Veterinary College, Patna, but despite submissions of the aforesaid application by the petitioner for consideration of her case for promotion against the post of Assistant Professor-cum-Junior Scientist in the services of the University, no action in respect thereof was taken. However, in the meantime, pursuant to the instructions issued by the concerned Authorities under the erstwhile Rajendra Agricultural University, Pusa, Samastipur by different letters issued by the Principal of Bihar Veterinary College, Patna, an up-to-date bio-data of the petitioner along with other relevant information was duly forwarded by the



concerned Authorities under the University for considering the case of the petitioner for promotion against the post of Assistant Professor in the services of the University.

11. Learned counsel further submits that in terms of the provisions contained under the Assured Career Progression Scheme introduced by the State Government, an office order dated 23.07.2008 was issued by the concerned Authorities under the Bihar Agricultural University, Patna by which amongst other persons, the petitioner was also granted the benefits of first financial progression under the said scheme w.e.f. 25.03.2001 i.e. upon completion of 12 years of service of the petitioner from the date of her initial appointment and joining in the capacity of Research Associate on 25.03.1989.

12. Subsequently, the petitioner was extended the benefits of first financial progression scheme under the aforesaid Assured Career Progression Scheme w.e.f. 25.03.2001 vide an amended office order dated 26.11.2008.

13. It is further submitted that while the application submitted by the petitioner for grant of promotion against the post of Assistant Professor-cum-Junior Scientist in the services of the University was pending for consideration before the concerned Authorities, a letter dated 24.06.2009 bearing letter



no. 2703 was issued by the concerned Authorities under the Agriculture Department of the State Government by which the concerned Authorities were advised to take steps towards granting promotion to the persons working against the posts of Agriculture Inspectors/ Senior Technical Assistants/ Junior Technical Assistants/ Demonstrators/ Research Assistants and equivalent posts under the services of the University against the post of Assistant Professor-cum-Junior Scientists/ Junior Scientists-cum-Assistant Professor in accordance with the provisions contained under Clause-14.1(B) of the Rajendra Agricultural University Statutes.

14. Learned counsel submits that in the manner as aforesaid, it is manifest that the petitioner was clearly entitled for being considered for grant of promotion against the post of Assistant Professor-cum-Junior Scientist/ Junior Scientist-cum-Assistant Professor in the services of the University, but unfortunately, the case of the petitioner was not considered for granting her promotion against the aforesaid posts.

15. Learned counsel further submits that in the meantime, Bihar Agricultural University, Sabour was created after bifurcation of the erstwhile Rajendra Agricultural University, Pusa in view of the Bihar Agricultural University Act, 2010 and



amongst other persons, the services of the petitioner also fell under the administrative control and jurisdiction of the newly created Bihar Agricultural University, Sabour.

16. It is further submitted that the then Principal of the Bihar Veterinary College, Patna by a letter dated 08.01.2015 bearing memo no. 2049 once again forwarded the application submitted by the petitioner for consideration of her grievance for grant of promotion against the post of Assistant Professor-cum-Junior Scientist in the services of the University under 5% quota reserved to be filled up by the persons working against the post of Agricultural Inspectors/Senior Technical Assistants/Junior Technical Assistants and other equivalent posts and duly recommended for grant of promotion to the petitioner.

17. Notwithstanding the fact that the petitioner had already been extended the benefits of financial progression under the Assured Career Progression Scheme by the aforesaid office order dated 23.07.2008 and modified office order dated 26.11.2008 while treating the initial date of her appointment as 25.03.1989, the same was sought to be interfered with by the University and initial date of her appointment for the purposes of extending the benefits of first financial progression under the Modified Assured Career Progression Scheme was sought to be



treated as 18.04.1995 and under these facts and circumstances, by a letter dated 29.06.2017 issued by the then Dean of Bihar Veterinary College, Patna, the Director Administration, Bihar Agricultural University, Sabour was requested to take steps towards making necessary corrections in the matter of date of her initial appointment of the petitioner and accordingly, extend her the benefits of financial progression under the Modified Assured Career Progression Scheme.

18. In the meantime, by another letter dated 29.06.2017 issued by the Dean, Bihar Veterinary College, Patna, the Director Administration, Bihar Agricultural University, Sabour was once again requested to look into the matter of considering the case of the petitioner for granting her promotion against the post of Assistant Professor under 5% quota in the services of the University in accordance with the provisions contained under the Statutes.

19. Learned counsel further submits that in the year 2017, the erstwhile Bihar Agricultural University, Sabour also came to be bifurcated and the new University, namely, Bihar Animal Sciences University, Patna was incorporated and accordingly, amongst other persons, the services of the present petitioner would also be transferred under the administrative control and



jurisdiction of the newly created Bihar Animal Sciences University, Patna. A Screening Committee constituted by the order of the concerned Authorities under the University for considering the cases of employees working at Bihar Veterinary College, Patna under the Bihar Animal Sciences University, Patna in so far as the matter of extension of financial progression under the Modified Assured Career Progression Scheme was concerned and accordingly, during the meeting held on 29.01.2018, the aforesaid Screening Committee while taking note of the various aspects of the matter and also the fact that other similarly situated persons who had initially been appointed in the capacity of Technical Supervisor in a similar manner as the present petitioner way back in the year, 1989 had been extended the benefits of the adjustment of her services w.e.f. the date of her initial appointment, the committee recommended that the services of the petitioner be also reckoned w.e.f. 25.03.1989 for the purposes of extending her the benefits of financial progression under the Modified Assured Career Progression Scheme. Thereafter, on the basis of the due deliberation and active consideration of various aspects of the matter pertaining to the case of the present petitioner and other similarly situated persons, by an office order dated 17.02.2018 amongst other



persons, the petitioner was extended the benefits of financial progression under the Modified Assured Career Progression Scheme while reckoning the date of her initial appointment as 25.03.1989. Subsequently, by the orders of the Vice Chancellor of the newly created Bihar Animal Sciences University, Patna, an office order dated 10.03.2018 was issued, by which the services of the petitioner were absorbed w.e.f. 25.03.1989 in the services of the University and accordingly, the benefits of financial progression under the Assured Career Progression Scheme/Modified Assured Career Progression Scheme would be directed to be extended in her favour.

20. After issuance of the aforesaid office order dated 10.03.2018, the petitioner has submitted a representation dated 04.04.2018 and requested the concerned authorities under the University to extend her the benefits of pay fixation in her favour while treating the 25.03.1989 as date of her initial appointment and joining in the services of the University, but unfortunately, the petitioner was neither extended the benefits of financial progression under the Modified Assured Career Progression Scheme while treating the date of her initial appointment and joining as 25.03.1989 nor the concerned authorities under the University took steps towards considering



her case for granting her promotion against the post of Assistant Professor-cum-Junior Scientist in the services of the University and under these facts and circumstances, the petitioner had legal notices served upon the concerned authorities under the University requesting therein that necessary steps be taken towards granting promotion to the petitioner and also the benefits under the Assured Career Progression Scheme while treating 25.03.1989 to be the initial date of her appointment and joining of the petitioner in the services of the University. She has also submitted a representation dated 30.07.2019 before the concerned authorities under the University and while furnishing various details pertaining to her case, the petitioner requested the concerned authorities that her case to be considered for granting her promotion against the post of Assistant Professor-cum-Junior Scientist in the services of the University and also for extending the benefits of Assured Career Progression Scheme in her favour while treating 25.03.1989 as the date of her initial appointment and joining in the services of the University in accordance with the decision as contained under the aforesaid office order dated 10.03.2018 issued by the orders of the Vice Chancellor of the University.

21. Despite the aforesaid representation as well as legal



notices having been served upon the concerned respondent authorities under the University, till date no action has been taken on the application form submitted by the petitioner and these facts manifestly demonstrate the highhandedness and illegal disposition on the part of the concerned respondent Authorities.

22. Being aggrieved, the petitioner filed another representation dated 16.06.2020 before the Registrar of the University requesting therein to take steps towards implementing the decision as contained under the aforesaid office order dated 10.03.2018 and accordingly, extend her the benefits of absorption of her services under the University w.e.f. 25.03.1989 and also, extend her the benefits of promotion as well as financial progression w.e.f. the due date in accordance with law, but till date no heed was paid.

23. Learned counsel further submits that the highhandedness and illegal disposition on the part of the concerned respondent authorities under the University would be manifested from the fact that despite several representations and legal notices having been served upon them, unfortunately, no action in this regard has been taken and the case of the petitioner for granting her promotion as well as extending her the benefits



under the Modified Assured Career Progression Scheme was not considered which is highly arbitrary, unreasonable and violation of Articles 14, 16 & 21 of the Constitution of India.

24. A counter affidavit on behalf of the Bihar Animal Sciences University has been filed stating therein that the petitioner represented her grievance by way of representation before the University wherein it was requested to grant 3rd MACP counting on the service with effect from 25.03.1989 in place of 18.04.1995. A committee was constituted for considering the promotion of non-teaching employee of the university under MACP. The committee recommended to grant MACP to the petitioner with effect from 25.03.1989. The then Dean, BVC reported that the service record of the petitioner from 25.03.1989 to 17.04.1995 is not available on records accordingly, the above said recommendation of the committee could not be implemented and the same was accepted by the University. The petitioner was allowed to avail all her service benefit since her adjustment i.e. with effect from 18.04.1995 on the premises that its predecessor Bihar Agricultural University, Sabour had also reckoned her service for the purpose of granting MACP from the date of her adjustment i.e. 18.04.1995 and not from her initial appointment i.e. 25.03.1989.



25. In view of the aforesaid submissions advanced on behalf of the parties, I am of the considered opinion that the service of the petitioner in the capacity of Junior Research Assistant (Technical) is fit to be regularized w.e.f. 25.03.1989 under the Parasitology Department of the erstwhile Bihar Veterinary College, Patna and the benefit of financial progression under the Assured Career Progression Scheme/Modified Assured Career Progression Scheme shall also be extended to the petitioner.

26. In the circumstances, the writ application is allowed with a direction to the respondent University to consider the case of the petitioner for regularizing the services of the petitioner in the capacity of Junior Research Assistant (Technical) w.e.f. 25.03.1989 under the Parasitology Department of the erstwhile Bihar Veterinary College, Patna and accordingly, extend the benefits of financial progression under the Assured Career Progression Scheme/Modified Assured Career Progression Scheme and take steps towards for granting her promotion against an appropriate post.

27. It goes without saying that if the petitioner is promoted, she would be entitled to other consequential benefits as well as other service benefits.



28. The petitioner is directed to file a representation along with a copy of this order before the respondent Authority within four weeks from the date of receipt/production of a copy of this order and the concerned respondent shall be obliged to consider the representation of the petitioner and take a decision within a period of one month from the date of filing such representation.

29. It is also made clear that if the grievance of the petitioner is not considered by the respondent Authority within one month, from the date of receipt/production of this order/copy of this order, the concerned respondent shall be liable for non-compliance of this order.

30. With the aforesaid observation and direction, this writ petition is disposed of.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.09.2024
Transmission Date	NA

