

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15569 of 2016

Dr. Binod Shankar Jha Son of Late Kusheshwar Jha, Resident of University Campus, Police Station- Kazi Mohammadpur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. The B.R.A. University, Muzaffarpur, through its Registrar.
4. The Vice Chancellor, B.R.A. University, Muzaffarpur.
5. The Registrar, B.R.A. University, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sachindra Kumar Tiwary
For the Respondent/s : Mr.Madanjeet Singh-GP 20

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 6 12-08-2024 1. The petitioner has filed the present writ application for quashing the decision taken on 01.07.2010, by which the University has shifted the date of appointment of the petitioner as Lecturer from 11.01.1980 to 01.01.1981 and, accordingly, shifted the date of promotion of the petitioner on the post of Reader from 21.05.1988 to 01.01.1989 and further the date of his promotion on the post of University Professor was shifted from 21.02.1996 to 01.01.1997.
2. The petitioner has also prayed for quashing the order, dated 23.12.2017, passed by the One-Man Committee of



Hon'ble Mr. Justice S. N. Jha (Retd.), (herein after referred to as the 'Committee') in Case No. 20 of 2014 and the order, dated 17.12.2015, passed in Review No. 4 passed by the Committee, by which the review petition filed by the petitioner was dismissed as not maintainable.

3. The case of the petitioner is that he was initially appointed on the post of Lecturer in the Department of Political Science at Ram Bilas Ganga Ram College, Maharajganj (in short, 'the College') on temporary basis vide Office Order, dated 21.12.1979, issued by the Vice Chancellor, following which the petitioner joined on 11.01.1980, pursuant to the advertisement published in the month of March, 1979.
4. Vide Notification, dated 25.02.1984, issued by the University, the services of temporary Lecturers working in different subjects were absorbed and amongst other, the name of the petitioner also find place in the list of Lectures, who have been absorbed. The petitioner was absorbed on the post of Lecturer in political Science in the College. Subsequently, he was transferred to L. S. College, Muzaffarpur and joined there on 14.05.1985.
5. Vide Memo No. 2554, dated 25.07.1997, the petitioner



was promoted to the post of Reader under Merit Promotion Scheme on the recommendation of the Bihar State University Service (Constituent College) Commission with effect from 21.05.1988. Subsequently, on the recommendation of the Commission, the University, vide notification, dated 15.11.2000, promoted the petitioner to the post of University Professor with effect from 21.05.1996.

6. In the aforesaid fact, the petitioner filed Case No. 20 of 2014 before the Committee, which was disposed of as not pressed, vide order, dated 23.12.2014. Thereafter, similarly situated Lecturers, who were initially appointed along with the petitioner, filed cases before the Committee and their cases were allowed by the Committee and the date of shifting of their absorption/regularization was corrected. The petitioner filed review application before the Committee, bearing Review No. 4, which was dismissed as not maintainable, vide order, dated 17.12.2015.
7. Learned Counsel for the petitioner submits that an advertisement was published by the University for appointment on the post of lecturers in different subjects,



including Political Science, in Indian Nation newspaper in the month of March, 1979. In pursuance of the advertisement, the petitioner applied for the post of Lecturer in Political Science and appeared before the Selection Committee for interview. The Selection Committee recommended the name of the petitioner and others and, accordingly, the Office Order, dated 21.12.1979, was issued by the University for appointment of the petitioner along with similarly situated other Lecturers in Political Science and other subjects, pursuant to which the petitioner joined on 11.01.1980.

8. Learned Counsel relies upon the decision, rendered in the case of **Dr. Kishore Kumar and Another v. The State of Bihar and Others**, reported in **(2001 (4) PLJR 776**, in which it has been 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.
9. Learned Counsel further argued that similarly situated persons/Lecturers, namely, Dr. Shashi Shekhar Sinha, Prof. Manjari Verma, Prof. Ram Prakash and Dr. Kamlesh Prasad, who were initially appointed as Temporary



Lecturers, along with the petitioner, their cases have been allowed by the Committee vide various orders, by which it has been directed to count their seniority from the date of their initial appointment, i.e. 11.01.1980. Since the case of the petitioner is exactly on the same footing, like the cases of the aforesaid Lecturers, therefore, the petitioner expected that he would be treated in similar manner for avoiding any discrimination. On the date of hearing of the case filed by the petitioner before the Committee, he was appearing in person and could not place the relevant and necessary facts, as such, the case of the petitioner was dismissed as not pressed. The review petition filed by the petitioner has been dismissed as not maintainable.

10. Since the appointment of the petitioner was valid and was given due promotion during the course of his service by the University, as such, the shifting of the date of his absorption with effect from 01.01.1981, as per the Second Absorption Statute, is not reasonable and fair.
11. Learned Counsel for the University as well as State submit that the date of absorption of the petitioner was validly shifted from 01.01.1981, as per the Second Absorption Statute. The petitioner failed to produce the



relevant documents at the time of appearance before the Committee and did not press his case.

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

13. The petitioner has filed the copy of the advertisement published in the Indian Nation in the year 1979 by way of supplementary affidavit (Annexure 9). Prof. Manjari Verma was appointed by the same Office Order with effect from 11.01.1980, which would be evident from Annexure 1. The same Office Order/appointment order was under consideration in the case of Prof. Manjari Verma by the Committee, which arrived at the finding that “the details of interview etc. have not been brought on record, but from the order of appointment, it appears that she was appointed on the recommendation of the Selection Committee, which suggests that a Selection Committee was constituted, which went into the merit of the candidates and, accordingly, made recommendations”. The Committee also came to the conclusion, in the case of Prof. Manjari Verma, that initial appointment of the petitioner was made against a sanctioned post after interview, as such, she is entitled to count seniority from



the date of her initial appointment in view of the decision of the Patna High Court.

14. Likewise, other Lecturers, who were appointed by the same Office Order/appointment order approached the Committee with the same grievance and their cases were allowed by the Committee and the Committee directed to count seniority from the date of their initial appointment, i.e. 11.01.1980.
15. From the facts discussed above, it emerges that the petitioner was duly appointed on a vacant sanctioned post after due process of selection and the similarly situated Lecturers were given seniority with effect from the date of their initial appointment, i.e. with effect from 11.01.1980 pursuant to the order passed by the Committee, as such, the denial of similar benefit to the petitioner on the technical ground that the petitioner did not press his case while appearing in person before the Committee and that the review is not maintainable, cannot sustain.
16. Accordingly, in order to prevent miscarriage of justice and discrimination, I feel it expedient to grant similar relief to the petitioner, which was given to the similarly



situated Lecturers by the Committee.

17. Accordingly, the order of the University, dated 01.07.2010 and the orders, dated 23.12.2017 and 17.12.2015, passed by the Committee are set aside.
18. The respondents are directed to reckon the services of the petitioner with effect from 11.01.1980, i.e., from the date of his initial appointment and to pay all admissible consequential benefits in accordance with law.
19. In the result, this writ application is allowed.

AFR/
Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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