

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10689 of 2022

Dr. Abdul Hannan C/o Abdul Rahman, resident of Village - Lagma, P.S. -
Simiri Bakhtiyarpur, Presently working as Assistant Professor, Post Graduate
Department of Economics, Magadh University, Bodh Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education
Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of
Bihar, Patna.
3. The Director, Higher Education, Government of Bihar, Patna.
4. The Vice Chancellor, Magadh University, Bodh Gaya.
5. The Registrar, Magadh University, Bodh Gaya.
6. The Finance Officer, Magadh University, Bodh Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh, Advocate
For the Respondent/s	:	Mr. Madhaw Pd. Yadaw (Gp23)
For the University	:	Mr. Om Prakash Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA

ORAL JUDGMENT

Date : 21-08-2024

Heard learned counsel for the parties.

2. The petitioner, who was appointed as Assistant
Professor on 01.07.2017 at Magadh University, has filed this writ
petition seeking a direction to the respondent University to count
the previous service of the petitioner from 04.10.2013 to
30.06.2017, during which period, the petitioner was working as
Assistant Professor in the University of Pune.

3. The petitioner, in support of his contention, has relied
on the Statutes for Appointment of Teachers (Assistant Professor



Grade) for the Universities of Bihar, 2014 (hereinafter referred to as 'the Statute').

4. Clause 6.3 of the aforesaid Statute reads as under:-

“6.3 Notwithstanding anything to the contrary as contained in the Statutes, if any college/university teacher is appointed in another University on a teacher post, shall be allowed continuity of his/her service for the purpose of his pay and allowances and grant of retirement benefits as admissible but not for determination of seniority.”

5. Reading of Clause 6.3 of the Statute would go to show that if any college/university teacher is appointed in another University on a teacher post shall be allowed continuity of his/her service for the purpose of his/her pay and allowances and grant of retirement benefits as admissible, but not for the purpose of determination of seniority.

6. The respondent University/respondent nos. 4 to 7 have filed two counter affidavits.

7. In paragraph no. 7 of the first counter affidavit, filed by the respondent University/respondent nos. 4 to 6 which has been sworn by Anjani Kumar Ghosh, it has been stated as under:-

“7. That it is stated here that the statutory provision regarding continuity in service, counting of previous service and pay protection is mentioned



under section 34-21 (2), approved by the chancellor on 20/09/1980 vide letter no. BSU 36/80-5275 GS (I) dated 18/11/1980.”

8. In paragraph no. 8 of the second counter affidavit, filed by the respondent University/respondent nos. 4 to 6, which has been sworn by Madhu Bala, it has been stated as under:-

“8. That it is humbly submitted that; the statutory provisions with regarded to continuity in service, counting of previous service and pay protection are as under;

Clause-21(2) of the Manual of Bihar University Laws (Approved by the chancellor on 20.09.1980 vide letter no. BSU 36/80- 5275 GS (I) dated 18.11.1980) provide that :- “....If the person, prior to his appointment in the university has been serving in another university, college or Board or institution his initial pay in the scale to which he is appointed, shall be fixed after taking into account the substantive pay drawn by him in that establishment immediately before his appointment in the University”.

Further, the scheme namely CAREER ADVANCEMENT SCHEME FOR PROMOTION OF TEACHERS (“RAU-06/2001- 3152/G.S(1) dated 09-01-2003) stated are as follows :-

3.0- Counting of Past Service:-



Previous service, without any break as an Assistant Professor/Junior Scientist or equivalent, in a university, college, national laboratory, scientific or organization e.g. CSIR, ICAR, UGC, FRDO, ICSSR, TCIIR and UGC Research scientist, should be counted for placement of Assistant Professor/junior scientist in senior scale/ selection grade provide that:

(i) The post was in an equivalent grade/scale of pay as the post of an Assistant professor/junior scientist.

(ii) The qualifications for the post were not lower than qualifications prescribed by the UGC/ICAR for the post of Assistant Professor/junior scientist.

(iii) The candidates who apply for direct recruitment should apply through proper channel.

*Further, the Governor's Secretariat vide memo no. **BSU- 25/2014-1359/GS (I)** dated **11.09.2014** issued a statutes for appointment of Teachers (Assistant Professor Grade) for the Universities of Bihar, 2014 and clause-6.3 stated that;*

"notwithstanding anything to the contrary as contained in the statutes, if any college/university teacher is appointed in another university on a teaching post, shall be allowed continuity of his/her service for purpose of his pay and allowances and grant of retirement benefits as admissible but not for determination of seniority"



9. From perusal of both the counter affidavits, filed by the respondent University, the relevant paragraphs of which have been quoted hereinabove, it appears that the respondent University does not dispute the applicability of Clause 6.3 of the Statute, which has been referred to and relied on by the petitioner. Learned counsel appearing for the University has also submitted that Clause 6.3 of the Statute, relied on by the petitioner is applicable to the Assistant Professors of the University.

10. In view of the stand taken by the respondent University in the counter affidavits filed and also submission made by the learned counsel for the University that Clause 6.3 of the Statute, as referred to and relied on by learned counsel for the petitioner, is applicable for the Assistant Professors of the University, this writ petition is hereby disposed of with a direction to the respondents, more particularly, respondent University/respondent nos. 4 to 6, to determine the pay and allowances of the petitioner, in accordance with Clause 6.3 of the Statute which has been quoted hereinabove, and other rules or guidelines that may be applicable for determination of the petitioner's pay and allowances, within a period of three months from the date of receipt of certified copy of this order.



11. The writ petition is disposed of with the above directions.

(Nani Tagia, J)

Siddharth
Sagar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.08.2024
Transmission Date	NA

