

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11644 of 2016

Dr. Anwar Jahan Khatoon W/o Dr. M.S Farookui R/o Karrar ki Bari,
Chandwara, P.S- Town District- Muzaffarpur was working as University
Professor Retd Department of Urdu, L.S College Muzaffarpur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Principal Secretary, Department of Human Resources Development, Bihar, Patna.
3. The Secretary, Higher Education, Department of Human Resource Development, Bihar, Patna.
4. B.R.A Bihar University Muzaffarpur 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 State	:	Mr. Pankaj Kumar Singh
For the University	:	Mr. Anil Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

7 02-07-2024

1. Heard learned counsel for the parties concerned.

2. The petitioner has filed the present writ application challenging the order, dated 29.02.2016, passed by Hon'ble Justice (Retd.) S. N. Jha Commission in case no. 82 (BRABU), by which the claim of the petitioner for seniority/absorption on the post of Lecturer from 01.01.1981 has been rejected.

3. Learned counsel for the petitioner submits that the petitioner was having qualification for the post of Lecturer and pursuant to the advertisement published in English Daily Newspaper "Indian Nation/Searchlight" on 09.10.1974 the



petitioner submitted her application. The petitioner appeared before the selection committee on 05.02.1975 and was appointed as Lecturer in Urdu and Persian at L. S. College, Muzaffarpur, for a period of six months. Petitioner's appointment stipulated that after expiry of six months, the service of the petitioner shall stand terminated w.e.f. 01.06.1975.

4. The petitioner, pursuant to her selection made earlier on the basis of advertisement and by following selection process, was again appointed for a period of six months by the Vice Chancellor on 21.03.1979 as Lecturer in the Department of Urdu in L. S. College, Muzaffarpur.

5. Learned counsel is claiming that as per the 2nd Absorption Statute, the 24 months of continuous service is required to be counted for the purpose of grant of seniority/absorption of the petitioner w.e.f. 05.02.1975 that is the date from when the petitioner was appointed earlier.

6. Relying upon the headnote of the note 1 of the Statute regarding regularization of the services of purely temporary lecturers, as approved by the Chancellor (2nd Regularization Statute), he submits that as per the note appended to the 2nd Absorption Statute, the condition prescribed



under Clause 1 (e) of the Statute shall be deemed to be fulfilled even if the name of the Lecturer concerned had ever been recommended by the Bihar Public/University Service Commission for appointment to the post of Lecturer or at least one of his appointment as Lecturer had been made on the basis of advertisement and selection as required above.

7. The Hon'ble Commission has failed to appreciate the aforesaid provision and has rejected the claim of the petitioner for absorption/seniority w.e.f. 01.01.1981.

8. On the other hand, learned counsel for the University argued that the University counted the service of the petitioner earlier w.e.f. 21.03.1979 and accordingly, the petitioner was promoted to the post of Reader w.e.f. 21.03.1989 and as University Professor w.e.f. 21.03.1995.

9. He further argued that note appended to the 2nd Absorption Statute is not applicable in view of the provision of the Statute, which says that one has to complete 24 months of service as on 31.12.1980 for availing the benefits of the 2nd Absorption Statute.

10. I have heard learned counsel for the parties and have gone through the material available on record.

11. As per the 2nd Absorption Statute, those who have



completed 24 months of continuous service as on 31.12.1980 were to be absorbed w.e.f. the cut-off date of 01.01.1981. The 3rd Absorption Statute came for the remaining temporary lecturers and the cut-off was fixed for absorption/regularization/seniority w.e.f. 28.02.1982.

12. Petitioner was appointed initially vide appointment order, dated 21.05.1975, for a period of six months on temporary basis, which was to be terminated on 01.06.1975.

13. Petitioner has failed to produce any documents to show that her appointment on 13.03.1975 was extended further by the University at any point of time. Thus, as per the condition mentioned in the appointment letter that after expiry of three months period the appointment of the petitioner as Lecturer shall terminate on 01.06.1975, accordingly, petitioner's appointment stood terminated.

14. Subsequently, without following the process of selection/advertisement/recommendation of the selection committee, the Vice Chancellor appointed the petitioner for a period of six months on 08.03.1979.

15. The appointment of the petitioner on 08.03.1979 has been reckoned by the one man committee on the ground that the process of appointment initiated pursuant to earlier



advertisement, dated 10.10.1974, came to an end with appointment of the petitioner on 06.03.1975 for a period of three months and further after expiry of three months period the appointment of the petitioner stood terminated w.e.f. 01.06.1975.

16. The appointment of the petitioner on 08.03.1979 is a fresh appointment without advertisement and without following the process of appointment, accordingly, in my opinion the petitioner cannot claim the benefit of the note of the 2nd Absorption Statute inasmuch as the petitioner did not fulfill the condition of 24 months of continuous service from the date of her initial appointment on 06.03.1975 for claiming benefit of cut-off date fixed under the 2nd Absorption Statute which is w.e.f. 01.01.1981

17. Admittedly, in the 3rd Absorption Statute there is no requirement of counting the continuous service of 24 months and the cut-off date fixed under the 3rd Statute for absorption/seniority is 28.02.1982.

18. The one man committee has rightly considered the claim of the petitioner for absorption as per the cut-off date mentioned in the 3rd Absorption Statute inasmuch as the petitioner was not fulfilling the requirement for



absorption/seniority w.e.f. 01.01.1981 as per the 2nd Absorption Statute.

19. Accordingly, I do not find any merit in this writ application and the same is dismissed.

(Anil Kumar Sinha, J)

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