

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2472 of 2016

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Vyas Narayan Bhardwaj, son of Late Sri Narayan Rai, resident of Village-Dahia, P.O- Mehdouli, P.S.- Barauni, District- Begusarai, at present Head of the Department Ancient Indian History, S.S.V. College, Kahalgaon, P.O. P.S.- Kahalgaon, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur through its Registrar.
3. The Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sarvan Kumar
For the State	:	Mr. Madhusudan Rai, AC to SC 23
For the University	:	Mr. Ranjan Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER
ORAL

Date : 23-04-2024

The petitioner has filed the present writ application, challenging the order, dated 29.12.2015, passed by One-Man Committee of Hon'ble Justice (Retd.) S. N. Jha (herein after referred to as 'the Committee'), wherein it has been held that the seniority/absorption of the petitioner shall be reckoned with effect from 01.01.1981 and not from the date of his initial appointment, i.e. 02.04.1979, as claimed by the petitioner.

2. As per the case of the petitioner, pursuant to an advertisement published in the local newspaper 'Indian Nation' on



30.12.1978, the petitioner was appointed on the sanctioned post of Lecturer in Ancient Indian History and Culture in Shankar Sah Vikramshila College, Kahalgaon, vide appointment letter, dated 24.03.1979 and the petitioner joined the said college on 02.04.1979. The petitioner was granted time-bound promotion in Reader on completion of ten years of service, effective from 02.04.1989, by the University and further he was granted promotion as Professor with effect from 02.04.1995, treating the seniority/service of the petitioner effective from 02.04.1979.

3. Learned Counsel for the petitioner submits that the petitioner was appointed after advertisement was published in the newspaper on a sanctioned post. He placed reliance on Annexure 2 to the writ application in support of his submission that the post of Lecturer in Ancient Indian History and Culture in the College, in question, was sanctioned. The petitioner submitted his joining on 02.04.1979 pursuant to the appointment letter, dated 24.03.1979.

4. Learned Counsel further submits that since the appointment of the petitioner was valid and was given due promotion(s) during the course of his service by the University, reckoning his date of appointment as 02.04.1979, as such, the shifting of the date of his absorption by the Committee with effect



from 01.01.1981 as per the Absorption Statute is not reasonable and valid.

5. Learned Counsel placed the impugned order, dated 29.12.2015, and submits that while deciding the claim of the petitioner for his absorption, the Committee has taken note of the fact that if the initial appointment of the person concerned is valid, he would be entitled to retrospective seniority from the date of initial appointment notwithstanding the prescribed cut off date fixed in the Absorption Statute.

6. However, the claim of the petitioner has been rejected by the Committee merely on the ground that no document was produced by the petitioner regarding his appointment on a sanctioned post and also that he does not possess the requisite qualification on the relevant date.

7. Learned Counsel further submits that on the date of hearing before the Committee, the copy of the advertisement and the educational certificate was not available with the petitioner, however, the Committee, upon request of the petitioner to produce relevant documents, refused to grant and extend the date of hearing and dispose the claim of the petitioner.

8. The petitioner has brought on record the copy of the advertisement (Annexure 1), mark sheet of the requisite



qualification, i.e. M.A. in A.I. & A.S. of the year 1977 (Annexure 6) as well as the letter regarding sanctioned post (Annexure 2).

9. On the other hand, learned Counsel for the University submits that the Committee has rightly decided the claim of the petitioner and has reckoned the date of his absorption with effect from 01.01.1981, as per the Second Absorption Statute in absence of any supporting documents.

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

11. Annexure 1 is the advertisement for appointment on the post of Lecturer, published in the Hindi newspaper 'Indian Nation', dated 30.12.1978. The subject, Ancient Indian History and Culture, was also one of the advertised post for Lecturer.

12. Annexure 2 is the sanctioned letter showing that the post of Lecturer in Ancient Indian History and Culture was sanctioned for two sessions, from 1972-73, which, according to the petitioner, was subsequently extended and the petitioner continuously discharged his function as Lecturer on the said post.

13. The University, in its counter affidavit, does not dispute this fact that the post on which the petitioner was appointed was not a sanctioned post and further the petitioner was



not having the requisite qualification for the post of Lecturer in Ancient Indian History and Culture.

14. In the similar circumstances, this Court, in the cases 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.

15. 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. The petitioner was being paid regular salary from the date of his initial appointment and also got time-bound promotion/merit promotion on due dates reckoning his services with effect from 02.04.1979.

16. Accordingly, I am of the considered opinion that the finding arrived at by the Committee that the appointment of the petitioner was not made on a sanctioned post and he was not having requisite qualification for the post of Lecturer, is not sustainable.

17. As such, the order, dated 29.12.2015, passed by One-Man Committee of the Hon'ble Justice (Retd.) S. N. Jha, is hereby quashed.



18. The University is directed to reckon the services of the petitioner with effect from 02.04.1979 and to pay all admissible consequential benefits to him in accordance with law.

19. In the result, this writ application is allowed.

20. There shall be no order as to costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	23-04-2024
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