

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11686 of 2014

Radha Mohan Prasad son of late Biswanath Prasad, Resident of Village-
Marpa, P.S.- Kanhauli, District- Sitamarhi, presently residing at Laxmi Nagar,
Basbaria Chowk, Sitamarhi

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Secondary Education, Education Department, Govt. of Bihar,
Patna
3. The Chairman, Bihar School Examination Board Senior Secondary, Bihar,
Patna
4. Sri Ramshrishth Bhagat, the Principal, Munni Lal Karpoori College,
Bhutahi, P.S.- Sonbarsa, District- Sitamarhi
5. The Governing Body of Munni Lal Karpoori College, Bhutahi, P.S.-
Sonbarsa, District- Sitamarhi
6. Baby Namrata, presently working as Lecturer, Department of Home Science,
Munni Lal Karpoori College, P.S.- Sonbarsa, District- Sitamarhi

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Prashant Sinha, Advocate
For the Respondent/s	:	Mr.Piyush Lall, Advocate
For B.S.E.B.	:	Ms. Surya Nilambari, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
CAV JUDGMENT

Date : 19-07-2024

1. The present writ application has been filed for quashing the order dated 21.03.2014 passed by the Director, Secondary Education, Government of Bihar (Annexure-10) whereby the claim of the petitioner for remuneration for the academic session 2006-2008 and further 2010-2014 from the grant in aid released by the State Government has been rejected. Consequential relief prayed by the petitioner is for a direction to the respondent authorities including the Managing Committee of the College to pay grant in aid to the petitioner.



2. The petitioner was Lecturer in the Department of Home Science of an unaided +2 College run by the Managing Committee and during the period when non- financed education scheme was prevalent, the petitioner was being paid his salary from the internal resources of the College. In 2009 non- financed education scheme was abolished and grant in aid was released by the State Government for payment to the Lecturers.

3. In the year 1988 the petitioner having the qualification of B.A.M.S. was appointed as a Lecturer in Home Science by the resolution of the Adhoc Committee in the Munni Lal Karpoori College, Bhutahi, Sitamarhi. Appointment letter dated 26.10.1988 was issued and the petitioner submitted his joining on the same day. After four years of appointment of the petitioner, the Adhoc Committee vide its resolution dated 23.04.1992 appointed the respondent no. 6 on the second post of Lecturer, Home Science.

4. The case of the petitioner is that he continuously worked as Lecturer in the Department of Home Science and was also designated as the Head of the Department while the respondent no. 6 left the College without any information and remained working with the Bihar Education Project as Supervisor in the Bihar Mahila Samakhya Society from 01.01.2004 to June, 2007.



After abolition of the non- financed education policy, the State Government started releasing grant in aid. The respondent no. 6 came back and joined the College and raised frivolous allegations against the petitioner and also raised the issue of seniority. The remuneration of the petitioner was fixed at Rs. 97,879/- for the session 2006-2008 and the Principal of the College signed the cheque amount, but the Convener of the Adhoc Committee -cum- Sub Divisional Officer, Sadar, Sitamarhi declined to put his signature over the cheque as the respondent no. 6 misguided him about the qualification of the petitioner. In the meanwhile, the Adhoc Committee was abolished and a regular Managing Committee was formed and the Managing Committee released the remuneration of the petitioner for the academic session 2007-2009 to the tune of Rs. 1,12,343/-.

5. The petitioner had approached this Court in C.W.J.C. No. 3077 of 2012 for release of his remuneration and the respondent no. 6 filed a writ petition bearing C.W.J.C. No. 5048 of 2012 for *inter se* seniority with the petitioner. Both the writ applications were disposed of by order dated 16.02.2012 and 19.03.2012 respectively with a direction to the Director, Secondary Education to examine the matter and dispose of the



representation filed by the petitioner with a reasoned order. Since the petitioner left the School in 2014 the main issue which was decided by the Director, Secondary Education was with regard to entitlement of the petitioner for remuneration from grant in aid and rejected the claim of the petitioner on the ground that B.A.M.S. degree of the petitioner does not fulfill the minimum educational qualification prescribed for appointment as Lecturer in Home Science.

6. Learned counsel for the petitioner argued that petitioner is having the qualification of B.A.M.S. which is a degree equivalent to the degree of M.B.B.S. As per the Statute prevailing at the time of appointment of the petitioner, M.B.B.S. degree was one of the qualifications for appointment as Lecturer in Home Science.

7. Lalit Narayan Mithila University, Darbhanga (hereinafter referred to as the "L.N.M.U.") in a decision taken on 23.01.1987 decided to appoint B.A.M.S. degree holders as Lecturers in Home Science. The Inter University Board vide its letter no. IUB / 4079 / 79 dated 17.09.1979 has held that the degree of B.A.M.S. is equivalent to the degree of M.B.B.S. which is an accepted degree for appointment to the post of Lecturer in Home Science / Domestic Science. Accordingly, the



L.N.M.U. had also prescribed the qualification of Lecturer in Home Science in the year 1979 as B.A.M.S. The required qualification for the post of Lecturer as prescribed by the Inter University Board is:-

“At least Second Class Masters Degree in Home Science or an MBBS Degree or M.Sc. (anatomy degree or M.Sc. Physiology) / or Ayurvedacharya (BAMS) or a Masters Degree in an allied subject plus a Degree or Diploma in Home Science from a recognized University”.

8. He further argued that the Kameshwar Singh Darbhanga Sanskrit University came out with a letter dated 10.03.2009 stating therein that the Bihar Government, Central Government, U.G.C., Delhi and other Universities have accepted the equivalent qualification for various certificates / degrees granted by the L.N.M.U. University in which B.A.M.S. has been shown as equivalent to M.B.B.S.

9. The petitioner sought information from Maharaj Lakshmishwar Singh Memorial College, Darbhanga regarding the teachers working in the said College in the Home Science Department and their respective qualifications. The College being a constituent unit of L.N.M.U. informed the petitioner vide letter no. 435 / 2012 dated 07.06.2012 that out of eight teachers working in the Home Science Department of the



College; seven are holding qualification of B.A.M.S.

10. Learned counsel relied upon the order passed by the Hon'ble Supreme Court in Civil Appeal No. 6098 of 1997 and the decision of the Inter University Board dated 17.09.1979 whereby the qualification of B.A.M.S. was held to be equivalent to the degree of M.B.B.S. for the purpose of appointment of Lecturer in Home Science. He annexed the relevant extract of the order passed by the Hon'ble Supreme Court along with relevant excerpts of the recommendation of Justice S.C. Agrawal Committee at Annexure-9. He also argued that the Convener of the Adhoc Committee- cum- S.D.O., who declined to put his signature over the cheque of the petitioner, while officiating as Convener of Pandit Dindayal Upadhyay College, Bairgania signed over the cheque of one Dr. Navendu Upadhyay, who was also working as a Lecturer, Home Science on the basis of degree of B.A.M.S.

11. The Director, Secondary Education relying upon the Statues relating to mode of appointment, pay scale and qualification for the post of Lecturer in the University and also relying upon the fixation of qualification made by the Bihar School Examination Board (Senior Secondary) which came after 2005 held that the qualification of B.A.M.S. is not proper



qualification for the post of Lecturer in the Department of Home Science.

12. On the other hand, learned counsel for the State argued that the petitioner had earlier approached this Court for grant of remuneration and this Court vide its order dated 16.02.2012 directed the Director, Secondary Education to dispose the claim of the petitioner. In pursuance thereof the Director, Secondary Education has passed the impugned order after examining all the materials and giving personal hearing to the petitioner.

13. I have heard learned counsel for the parties and have gone through the materials on record. The issue which requires consideration by this Court is whether the petitioner was holding requisite qualification for appointment as Lecturer at the relevant point of time.

14. As per the Statute, for appointment as Lecturer in Home Science in the year 1978, undisputedly M.B.B.S. degree was one of the qualifications.

15. From perusal of Annexure-7 relied upon by the petitioner it appears that L.N.M.U. took a decision dated 23.01.1987 and decided to appoint B.A.M.S. degree holders as Lecturer in Home Science.

16. In the report / recommendation of Justice S.C. Agrawal



Committee reference has been made about the letter of Inter University Board bearing no. IUB / 4079 / 79 dated 17.09.1979 in which it has been mentioned that the degree of B.A.M.S. is equivalent to M.B.B.S. which is an accepted degree for appointment as Lecturer in Home Science. The qualification for Lecturer in Home Science prescribed by the L.N.M.U. in the year 1979 is as follows:-

“At least Second Class Masters Degree in Home Science or an MBBS Degree or M.Sc. (anatomy degree or M.Sc. Physiology) / or Ayurvedacharya (BAMS) or a Masters Degree in an allied subject plus a Degree or Diploma in Home Science from a recognized University”.

17. Kameshwar Singh Darbhanga Sanskrit University in its letter dated 10.03.2009 has held that the degree of Ayurvedacharya (B.A.M.S.) is equivalent to the degree of M.B.B.S.

18. Maharaj Lakshmishwar Singh Memorial College, Darbhanga which is a constituent unit of L.N.M.U. vide its letter dated 07.06.2012 informed the petitioner that out of eight teachers working in Home Science Department of the College, seven are holding the qualification of B.A.M.S.

19. The respondent / State failed to deny all the aforesaid documents produced by the petitioner before this Court and



before the Director, Secondary Education, but the Director, Secondary Education has rejected the claim of the petitioner relying upon the qualification for appointment prescribed after 2005 by the Bihar School Examination Board (Senior Secondary) to the post of Lecturer in Home Science Department. The petitioner was appointed in the year 1988 which is prior to coming into force of the Bihar School Examination Board (Senior Secondary) Rules, 2005.

20. From the aforesaid discussions and the documents, it can be concluded that for appointment on the post of Lecturer in Home Science, degree of B.A.M.S. was treated to be at par with M.B.B.S. degree at the relevant point of time. Subsequent change in the qualification for appointment cannot be made applicable for denying the claim of the petitioner.

21. There is specific statement of the petitioner in paragraph no.- 9 of the writ application that the same Convener of the Adhoc Committee -cum- Sub Divisional Officer, Sadar, Sitamarhi, who refused to sign the cheque of the petitioner on the ground that the petitioner was not holding the requisite qualification for appointment as Lecturer in Home Science, signed over the cheque of another Lecturer, Home Science namely, Dr. Navendu Upadhyay, who was also working on the



basis of the degree of B.A.M.S. while officiating as Convener of Pandit Dindayal Upadhyay College, Bairstonia. This fact has not been denied by the respondents in their counter affidavit.

22. In the result, the impugned order dated 21.03.2014 contained in Annexure-10 rejecting the claim of the petitioner for grant of remuneration from the grant in aid released by the Government on the ground that petitioner held the B.A.M.S. degree, which was not the required qualification for the post of Lecturer in the Department of Home Science / Domestic Science, is set aside.

23. The concerned respondents are directed to ensure payment from the grant in aid for the period claimed by the petitioner as per the scheme within a period of six months from the date of receipt / production of a copy of this order upon the respondents.

24. With the aforesaid observation and direction, the application stands allowed.

(Anil Kumar Sinha, J)

praful/-AFR

AFR/NAFR	AFR
CAV DATE	02.07.2024
Uploading Date	19.07.2024
Transmission Date	NA

