

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21958 of 2014

Dr. Bijay Kumar Thakur, Son of late Indu Shekhar Thakur, resident of Village-Brahmotra, Post.- Pandaul, P.S.- Sakari, District- Madhubani, Superannuated Associated Professor in the department of English, R.N. College, Pandaul, Madhubanui.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director, Higher Education, Govt. of Bihar, New Secretary, Patna.
3. The Authorised Officer, Pay Verification Cell, Education Department, Bihar State Text Book Corporation Ltd. Budha Marg, Patna, Bihar.
4. The Vice Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
5. The Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
6. The Finance Officer, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
7. The R.N. College , Pandaul Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh, Advocate
For the State	:	Mr. Bhan Singh, AC to GP-19
For the LNMU	:	Mrs. Binita Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 19-02-2024

1. Heard learned counsel for petitioner and learned counsel for the respondents.

2. The petitioner has filed the instant application for the following relief(s):-

“1. (i) For issuance of an appropriate writ in the nature of Certiorari for quashing, the letter bearing No. 757 dated 15.7.2014 and also Pay verification letter No. 08071308011592 by which the respondent no.3 has shifted the date of



appointment and date of promotion of the petitioner from 15.02.74 to 09.05.80 and from 01.02.85 to 09.05.90 respectively, without considering the fact that the petitioner was appointed on Ist post which was duly sanctioned by the University and continued upon temporary concurrence by the Commission and having received the approval from the Chancellor and on requisition for 'Antarmukti' of the University the University Service Commission made recommendation for permanent appointment, the petitioner was promoted to the post of Reader on the recommendation made by Bihar State University (Constituent Colleges) Service Commission and pay fixation was made by the Statutory Pay Fixation Committee time to time.

(ii) For issuance of an appropriate writ of Mandamus commanding and directing the respondent authorities to not shift the date of appointment from 15.02.74 to 09.05.80 and date of promotion to the post of Reader from 01.02.85 to 09.05.90 respectively as it has been held legal and valid by the University itself and the same has been confirmed by the Statutory Body time to time and after fixation by the competent authority date of appointment 15.02.74 and date of promotion to the post of Reader i.e. 01.02.85 was being treated and a direction to treat 15.02.74 as date of appointment and 01.02.85 as date of promotion to the post of Reader of the petitioner for all the purposes.

(iii) For issuance of any other appropriate



writ/writs, order/orders, direction/ directions for which the writ petitioner shall be found entitled under the facts and circumstances of the case.”

3. The case of the petitioner in brief is that pursuant to his appointment as Lecturer in an affiliated college on 28.12.1972, the petitioner gave his joining on 2.1.1973. By letter dated 18.11.1977, written by the Bihar College Service Commission to the college in question, approval was given to a list of teachers who were working in temporary capacity for a period of three months or till regular appointments are made. The name of the petitioner figures at serial no.2 in the list of the said letter.

4. Learned counsel for the petitioner submits that the petitioner continued to work without any break and letter no.30879 dated 19.10.1979 and letter no.5166 dated 2.4.1980 was written by the Registrar of the University to the Bihar College Service Commission. By letter dated 23.5.1980, the Bihar College Service Commission in response to the aforesaid letters dated 19.10.1979 and 2.4.1980 observed that pursuant to the interview held on 9.5.1980, the Commission recommended for appointment of the teachers mentioned in the said letter. The name of the petitioner figures at serial no.10. Accepting the appointment of the petitioner to be of the year 1974, by



notification dated 26.8.1996 issued under the signature of the Registrar, Lalit Narayan Mithila University, the petitioner was granted promotion to the post of Reader in English with effect from 1.2.1985 under the ten year time bound promotion statute. It is submitted that the said promotion having been granted on the recommendation of the Bihar State University (Constituent Colleges) Service Commission, there remains no doubt that all the authorities concerned had accepted the date of appointment of the petitioner to be of the year 1974. The petitioner was therefore surprised that the Pay Verification Cell of the Government of Bihar issued a pay slip from which it transpires that the date of appointment of the petitioner as Lecturer has been shifted from 15.2.1974 to 9.5.1980 and that of the petitioner's promotion as a Reader has been shifted from 1.2.1985 to 9.5.1990. The same is clearly illegal and unsustainable and hence the writ application for the reliefs as prayed for herein above. Learned counsel for the petitioner further submits that though the petitioner was appointed as Lecturer on 2.1.1973, however, the post in question having been sanctioned by the authorities, his appointment has been treated to be with effect from 15.2.1974.

5. In response, learned counsel appearing for the



respondent-State of Bihar submits that from reading of the order dated 4.1.2024 (Annexure-R/2 to the counter affidavit) issued under the signature of the In-charge Officer, Pay Verification Cell, Education Department, Government of Bihar it would transpire that by letter no.339 dated 23.5.1980, recommendation had been made for appointment of the petitioner with effect from 9.5.1980. It is submitted that by letter dated 14.2.1974 one post in the subject in the College had been sanctioned and further by letter dated 23.5.1980 approval had been given for appointment with effect from 9.5.1980. Hence it is submitted that there is no illegality in the pay slip issued by the Pay Verification Cell showing the appointment of the petitioner as a Lecturer on 9.5.1980 and consequently the petitioner's promotion as Reader with effect from 9.5.1990.

6. Having heard learned counsel for the parties and having perused the contents of the petition, it transpires that as per the petitioner's case he was appointed as a Lecturer in the Department of English in the M.K.S. College, Trimuhan, Bishanpur (Madhubani) on 28.12.1972 and gave his joining on 2.1.1973. It is also not in dispute that by letter dated 18.11.1977, the Bihar College Service Commission had approved the services of the teachers who were working in the temporary



capacity in the College in question and which included the petitioner who was working as a Lecturer in the English Department. From the perusal of the letter dated 23.5.1980 (Annexure-4) written by the Secretary of the Bihar College Service Commission, it transpires that the letter no. 30879 dated 19.10.1979 and letter no. 5166 dated 2.4.1980 were written by the Registrar, Lalit Narayan Mithila University to the Commission. It is the case of the petitioner that the same contained the list of teachers, for approval of whose services the letters were written to the Commission and which included the petitioner herein. In response to the said letters, the Commission conducted an interview on 9.5.1980 and by the aforesaid letter dated 23.5.1980 wrote to the Registrar of the University that pursuant to the interview held on 9.5.1980, the services of the teachers mentioned therein which included the petitioner at serial no.8 has been approved.

7. At this stage itself it would be relevant to mention that the respondents have also relied upon this letter stating that there is no statement in the said letter to the effect that the petitioner was appointed on 15.2.1974. It may be noted that no date of appointment of any of the teachers including the petitioner has been given in the said letter. Thus, the respondents



could not have been concluded from the said letter that the date of appointment was to be treated with effect from the date of the interview ie 9.5.1980. Further, from perusal of the order dated 26.8.1996 (Annexure-5) it is clear that the University after taking into account the petitioner having completed his 10 years of service as a Lecturer, under the 10 years time bound promotion statute and on the recommendation of the Bihar State University (Constituent Colleges) Service Commission gave promotion to the petitioner as Reader with effect from 1.2.1985.

8. Thus, in view of the facts and circumstances stated herein above, in the opinion of the Court, there remains no doubt that the respondents/University have all along accepted the date of appointment of the petitioner as the year 1974 or at least 1.2.1975 and thus he has been granted promotion as Reader under the 10 years time bound promotion scheme with effect from 1.2.1985.

9. In view of the facts and circumstances stated herein above, the action of the respondent authorities in shifting the date of appointment of the petitioner from 15.2.1974 to 9.5.1980 as also shifting the date of promotion as a Reader of the petitioner from 1.2.1985 to 9.5.1990 is unsustainable and is hereby set aside with all consequential reliefs. Financial benefits



to which the petitioner is found entitled will be paid to the petitioner by the Registrar, Lalit Narayan Mithila University within a period of four months from the date of receipt/production of a copy of this order.

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	N/A
Uploading Date	28.02.2024
Transmission Date	N/A

