

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8763 of 2016

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Dr. Manzar Ali Son of late Md. Zahoor Shah, resident of Bihar Sharif, P.S.- Bihar, District- Nalanda at present Associate Professor, Department of Hindi, Nalanda College, Bihar Sharif under the Magadh University, P.S.- Bihar, District- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Principal Secretary, Human Resources Development Department, Bihar, Patna.
3. The Secretary, Higher Education, Department of Human Resources, Bihar, Patna.
4. Magadh University through its Registrar, Bodh Gaya, District- Gaya.
5. The Vice Chancellor, Magadh University, Bodh Gaya, District- Gaya.
6. The Registrar, Magadh University, Bodh Gaya, District- Gaya.
7. The Principal, Nalanda College, Bihar Sharif, P.S. Bihar, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dineshwar Prasad Singh
For the Respondent/s	:	Mr. Sc9- Raj Nandan Prasad

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

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| 4 | 02-05-2024 | <ol style="list-style-type: none">1. The petitioner being aggrieved by the order dated 25.02.2016 passed by Hon'ble Justice (Retired) S.N. Jha Committee in case no. 1660 (M.U.) whereby the date of seniority/absorption of the petitioner has been fixed as per cut off date fixed in the third absorption statute i.e., with effect from 28.02.1982, has filed this application claiming his seniority/absorption on the post of lecturer from 02.07.1979.2. Learned counsel for the petitioner submits that pursuant |
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to an advertisement published in English Daily News Paper “Indian Nation” dated 01.03.1978 by the Registrar, Magadh University, Bodh Gaya, for appointment of Lecturer on purely temporary basis in different departments under Magadh University Service, the petitioner having requisite qualification in Hindi, applied for the post of temporary lecturer. He appeared before the Selection Committee for interview duly constituted by Vice Chancellor, Magadh University and accordingly, on 25.06.1979, the officiating Registrar of the Magadh University issued appointment letter to twenty five persons including the petitioner under the order of Vice Chancellor wherein the name of the petitioner figured at serial no. 24 and the petitioner was appointed in the Department of Hindi, A.N.S. College, Barh. The petitioner joined on 02.07.1979 as lecturer on purely temporary basis in Department of Hindi, A.N.S. College, Barh.

3. The Inspector of Colleges, M.U., issued memo no. 70/86/902/GI dated 11.06.1991 whereby 59 teachers who were in Magadh University service on or before 28.02.1982 have been absorbed as teacher in the regular



service of Magadh University in the pay scale of Rs. 700-1600 with effect from 02.07.1979.

4. Learned counsel further submits that before the Hon'ble Justice (Retired) S.N. Jha Committee, the petitioner could not produce the relevant document regarding his initial appointment i.e., advertisement and other necessary documents, however, the petitioner has annexed at Annexure 1 the advertisement published in the Indian Nation for appointment. The Committee has wrongly arrived at the conclusion that the petitioner's initial appointment was not valid whereas the University, after being satisfied with the appointment of the petitioner earlier regularized the services of the petitioner with effect from 02.07.1979.
5. No one appears for the State, however, learned counsel for the University submits that the Hon'ble Justice (Retired) S.N. Jha Committee has disposed the claim of the petitioner on the basis of material available on record.
6. I have heard learned counsel for the petitioner as well as University and have gone through the impugned order dated 25.02.2016. In the light of the decision of the Hon'ble Patna High Court, the commission was required



to see as to whether the initial appointment of the petitioner was valid so as to entitle him the benefit of retrospective seniority/absorption from the date of initial appointment. It is sine-quo-non for a valid appointment among other things is that the appointment should be made after advertisement duly published in the newspaper against the sanctioned post, interview by the competent authority, recommendation of the Selection Committee, etc. From perusal of Annexure 1, it appears that the petitioner has annexed a letter i.e., format of the advertisement but newspaper publication of the advertisement is not on record. There is nothing on record to show the recommendation of the Selection Committee. Even the appointment letter of the petitioner annexed at Annexure 2 of this writ application does not disclose that the appointment was made pursuant to advertisement dated 01.03.1978 after recommendation of the name of the petitioner by the Selection Committee.

7. From impugned order passed by the Committee, it appears that the Committee has arrived at the conclusion that there is nothing on record to show that petitioner's appointment was made after advertisement interview etc.



While considering the cases of the University teachers, this Court took a view that if the initial appointment of the person was valid, he would be entitled to retrospective seniority/absorption from the date of initial appointment notwithstanding the cut off date fixed in the absorption statute. Since the petitioner has failed to show that his initial appointment made on the post of lecturer on 02.07.1979 was valid, accordingly, I come to the conclusion that the Commission has rightly fixed the seniority of the petitioner with effect from 28.02.1982 in terms of the cut off date prescribed in third absorption statute.

8. Consequently, I do not find any infirmity in the impugned order passed by the Hon'ble Justice (Retired) S.N. Jha Committee.
9. Accordingly, this writ application stands dismissed.

(Anil Kumar Sinha, J)

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