

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12787 of 2022

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1. Kamlesh Kumar Son of Late Avadhbihari Singh, Resident of Village- Jhinguri, P.O.- Jhinguri, P.S.- Pouthu, District- Aurangabad.
 2. Ramnaresh Singh Son of Late Chitman Singh, Resident of Village- Rampur Khurd, Ward No.- 5, Kamaul, P.S.- Sahebganj, District- Muzaffarpur.
 3. Bhushan Prasad Singh Son of Late Parmeshwari Narayan Singh, Resident of Village- Kamaul Chatarbhuji, P.S.- Sahebganj, District Muzaffarpur.
 4. Sureshwar Ram Son of Late Shivdhar Ram, Resident of Village- Ashapatti, Parsouni, P.O.- Kurnool, P.S.- Sahebganj, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through The Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Secretary, Department of Education, Government of Bihar, Patna.
4. The B.R. Ambedkar Bihar University, Muzaffarpur through its Registrar.
5. The Vice Chancellor, B.R. Ambedkar Bihar University, Muzaffarpur.
6. The Registrar, B.R. Ambedkar Bihar University, Muzaffarpur.
7. The Finance Officer, B.R. Ambedkar Bihar University, Muzaffarpur.
8. The Principal, C.N. College, Sahebganj, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jagjit Roshan, Advocate
For the State	:	Mr. Prabhakar Jha (GP- 27)
For the University	:	Mr. Rakesh Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 03-03-2025 Heard Mr. Jagjit Roshan, learned counsel appearing on behalf of the petitioners; Mr. Prabhakar Jha, learned GP-27 appearing on behalf of the State and Mr. Rakesh Kumar Singh, learned counsel for the B.R. Ambedkar Bihar University (hereinafter referred to as the 'University').

2. Learned counsel appearing on behalf of the



petitioners submits that the case of the petitioner is covered by the decision of a co-ordinate Bench of this Court passed in ***CWJC No. 4986 of 2021 (Pinki Devi vs. the State of Bihar & Ors.)*** and analogous cases, wherein, upon consideration of the judgment passed in ***Braj Kishore Singh & Ors. Vs. The State of Bihar & Ors.***, reported in ***1997 (1) PLJR 509***, the batch of writ petitions were disposed of with a direction to consider the entitlement of the petitioners, if the services of the petitioner has been found to be continuous without any interruption till the period of their regularization. The entire period has to be counted in light of the law laid down by the Apex Court in the case of ***Direct Recruit Class II Engineering Officers Association Vs. State of Maharashtra*** reported in ***AIR 1990 SC 1607***. Learned counsel further submitted that the individual cases of the petitioners also deserve to be considered for calculating the pensionary benefits from the date of their initial appointment and in this regard, the petitioners seek to file detailed representation before the Registrar of the Bhim Rao Ambedkar Bihar University, Muzaffarpur.

3. Learned counsel appearing on behalf of the State submits that the petitioners were appointed without following the due procedure on the unsanctioned posts. The University in



an illegal manner had regularized their services as per resolution no. 989 dated 10.05.1991 which was withdrawn by the State Government vide letter dated 28.11.1995. Learned counsel submits that in this regard, specific statements have been made in paragraphs no. 15 to 17 of the counter affidavit filed on behalf of the respondents no. 1 to 3, which are reproduced hereinafter:

"15. That it is stated here that the University regularized the services of the petitioners on its own in the year 2012 by different office orders as contained in Annexure-12 to the writ application relying on resolution of the State Government bearing no. 989 dated 10.05.1991 which was not in existence in the year 2012 as the same was already withdrawn in the year 1995. The said regularization was made in violation of circular of the State Government bearing no. 1820 dated 17.11.1998. The State Government never approved the said regularization made by the University, which was mandatory in view of circular dated 17.11.1998 as such. It is further stated that the regularization made by the University is not valid.

16. That it is further important to mention here that there is no averment in the writ application that the petitioners were appointed pursuant to any advertisement following the due process of law for appointment.

17. That from the facts stated above, it is quite clear that the writ petitioners were appointed without following the procedure of appointment against the unsanctioned post. Their services have also not been regularized in terms of letter of the State Government bearing letter no. 1820 dated 17.11.1998 though the same was regularized by the University in illegal manner in view of resolution issued vide letter no. 989 dated 10.05.1991 without taking note of the fact that the said letter has been withdrawn by letter dated 28.11.1995."

4. Heard the parties.



5. Having considered the rival submissions made on behalf of the parties, as well as, material available on record, in the peculiar facts of the case that the posts on which the petitioners were appointed are not a sanctioned post approved by the State Government, the Registrar of the University may consider to make payment to the petitioners from its own internal sources in view of their admission that the petitioners have continuously worked.

6. Accordingly, the present writ petition stands disposed of.

(Purnendu Singh, J)

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