IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A. No. 115 of 2023

1. The State of Jharkhand through its Secretary, H.R.D. Department, Higher Education, Government of Jharkhand, Project Building, Dhurwa, Ranchi-4, P.O. Dhurwa, P.S. Jagannathpur, District Ranchi.
2. The Director, H.R.D. Department, Higher Education, Government of Jharkhand, Project Building, Dhurwa, Ranchi-4, P.O. Dhurwa, P.S. Jagannathpur, District Ranchi.

... **Respondents/Appellants**

Versus

1. Prof. Dr. Jitendra Prasad Sinha, s/o Late Bhola Prasad Sinha, Retd. Reader, Department of Botany, Gossner College, Ranchi and R/o House No.29, BudhVihar, opposite Ashok Nagar, Road No.4, P.O. Ashok Nagar, P.S. Argora, District Ranchi

… Petitioner/Respondent

2. Ranchi University, through its Vice-Chancellor, Ranchi University, Ranchi, P.O. G.P.O., P.S. Kotwali, District Ranchi.
3. Registrar, Ranchi University, Ranchi, P.O. G.P.O., P.S. Kotwali, District Ranchi.
4. Gossner College through its Principal/Secretary, P.O. G.P.O., Ranchi, P.S. Lower Bazar, Ranchi, District Ranchi.

...**Respondents/Performa Respondents**

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANOJ PRASAD

For the Appellant: Mr Rishabh Kaushal, A.C. to G.P.-II
For the Resp.1: Mr Atanu Banerjee, Advocate
For the Resp. 2 & 3: Mr Amit Kumar Sinha, Advocate
For the Resp. No.4: None

21/ **Dated: 29.10.2026**

1. Heard Mr Rishabh Kaushal, learned A.C. to G.P.-II for the appellant, Mr Atanu Banerjee, learned counsel for the 1st respondent (Original petitioner in W.P.(S) No. 3302 of 2014), and Mr Amit Kumar Sinha, learned counsel for the 2nd & 3rd respondents (Ranchi University).The 4th respondent was duly served but did not appear.

2. This appeal is directed against the learned Single Judge's judgment and order dated 18.04.2022 allowing W.P.(S) No. 3302 of 2014.

3. The impugned judgment and order dated 18.04.2022 has directed the following:

> *"22. The Director, Higher Education is directed to revise the pay-scale of the petitioner on the post of reader with effect from 23.03.1989, the day the petitioner was promoted to the post of Reader by the competent authority, with all consequential benefits. The petitioner having already retired, the differential amount of pay on the post of Reader with subsequent pay revisions as per law etc. be calculated and remitted to the account of the minority institution to be in turn paid to the petitioner and consequently, the pension/post-retirement benefit be also revised and differential amount be paid as per law. It is important to note that as per the case of the petitioner certain amount was released in favour of the minority institution being the differential salary of the petitioner on the post of reader but was not paid to the petitioner by the minority institution and the pay fixation was subsequently revised adversely against the petitioner. The entire exercise should be completed by the Respondent no. 2 within a period of six months from the date of receipt of a copy of this order. The petitioner shall produce a copy of this order along with the copy of the writ records before the Director, Higher Education within a period of two months."*

4. Initially, the I.A. seeking condonation of delay of 326 days in instituting this appeal was dismissed by the Co-ordinate Bench. However, in the Civil Appeal arising out of S.L.P. (C) No. 4427 of 2025, the Hon'ble Supreme Court, by order dated 17th April 2025, reversed the order declining the dismissal, condoned the delay, and restored this appeal to its original number and position.

5. By the order dated 17th April 2025, this Court was requested to expedite the hearing and decide the appeal on its own merits, uninfluenced by the interim order dated 03.02.2025. Accordingly, this appeal was taken up for consideration out of turn.

6. Mr Rishabh Kaushal apprised us of the facts and relevant dates and submitted that the post of Lecturer, to which the original petitioner was appointed on 23.03.1979, was sanctioned by the State Government only on 01.05.1987. He submitted that the State Government had clarified that it would not bear the financial responsibility for the period prior to 01.05.1987. He submitted that despite this clear position, the learned Single Judge, by the impugned judgment and order, has directed the consideration of the original petitioner's services from 23.03.1979 for grant of Time Bound Promotional Scale (TBPS). He submitted that this was an error apparent on the face of the record that warranted interference by the appellate Court.

7. Mr Rishabh Kaushal invited our attention to the TBPS statutes dated 14.09.1992 and pointed out that the original petitioner never held any substantive appointment as a Lecturer before 1987. He further submitted that the statute itself clarified that deficit grant will be paid by the State Government only to the Lecturer working against a post sanctioned on or before 19th October 1982 in colleges affiliated to the University on or before 19.10.1982. He submitted that, though this 1992 statute has been quoted in paragraph 15 of the impugned judgment and order, the learned Single Judge failed to appreciate that, under the quoted statute, the original petitioner was not entitled to count his services

rendered prior to 1987. He submitted that this is also an egregious error which warrants interference by this appellate Court.

8. Finally, Mr Rishabh Kaushal submitted that the original petitioner had instituted C.W.J.C. No. 3495 of 1992 (R) and in the order dated 20th August 1999 disposing of this writ petition, a direction was issued for payment of salary from the date the post was sanctioned, i.e. 1st May 1987. He submitted that this finding is binding on the original petitioner and that the petitioner could not have claimed consideration for his services prior to 1st May 1987 to secure benefits under the TBPS statute of 1992.

9. For all the above reasons, Mr Rishabh Kaushal submitted that the learned Single Judge's impugned judgment and order should be set aside, and the original petitioner's writ petition should be dismissed.

10. Mr Atanu Banerjee defended the impugned judgment and order based on the reasoning reflected therein. He pointed out that the matter is covered by the decision of the Hon'ble Supreme Court in **State of Bihar and others vs Syed Asad Raja and others *(1997) 11 SCC 442,*** which also concerned a minority institution under Ranchi University. He submitted that the Hon'ble Supreme Court has held that, for the creation of a post in a minority institution and its appointment, prior approval of the University Vice Chancellor or the State Government is not a precondition.

11. Besides, he submitted that even the conditions prescribed under the TBPS statute of 14.09.1992 were duly complied with, as has been held by the learned Single Judge in the impugned judgment and order. Mr Banerjee submitted that documentary

evidence on record showed the original petitioner had been working since 1979 in a college affiliated to the University. He submitted that this position was also accepted by the appellant-State Government.

12. For these reasons, Mr Banerjee submitted that this appeal may be dismissed.

13. The rival contentions now fall for our determination.

14. The relevant facts involved in this matter are not in serious dispute, and the same have been set out in paragraph 14 of the learned Single Judge's impugned judgment and order. As such, such facts are not repeated in this judgment and order.

15. Admittedly, the original petitioner was appointed as a Lecturer in Botany by the governing body of the Gossner College, Ranchi, with effect from 21.03.1979. There is also no dispute that the College is affiliated with Ranchi University or is a minority institution.

16. In W.P.(S) No. 3302 of 2014 instituted by the original petitioner, there was no claim for salary for the period between 1979 and 1987. The original petitioner's contention, however, was that his services from 1979 should be counted for computing the 10-year period prescribed for availing the benefits under the EBPS and under the TBPS statute dated 14.09.1992.

17. The relevant clauses of the TBPS statute have been transcribed in paragraph 15 of the learned Single Judge's impugned judgment and order.

18. However, for convenience, paragraph 15 of the impugned judgment and order is transcribed below:

"15. It is not in dispute that the petitioner is governed by the statute namely*, "Statutes for Time Bound Promotion of Lecturers to the post of Readers and Promotion of Readers to the posts of University Professors of Affiliated Colleges including Religious and Linguistic Minority Colleges dated 14.09.1992".* The relevant clauses of the statute are Clauses 1,2,4, 6,7 and 8 which are quoted as under :-

"(1) A lecturer, serving in an affiliated college (which includes colleges established and managed by religious and linguistic minority) managed and maintained by the Governing Body, shall on the recommendation of the Bihar Colleges Service Commission be promoted on the basis of Time Bound Scheme to the post of Reader, subject to the following conditions: -

(a) That, he holds the qualification as prescribed for the post of Lecturer under the Statute inforced at the time of his appointment as Lecturer and has fulfilled the conditions, if any attached thereto as laid down in the Statute;

***(b) That, he holds substantive appointment on the post of Lecturer**; and*

(c) That, he has completed at least ten years of continuous service as lecturer in one or more Universities within the State of Bihar: Provided that the service rendered in a degree college during the period the college was not affiliated in the subject concerned even up to the intermediate standard, shall not be taken into account for the purpose of this Statute.

Provided further that the service rendered in more than one University within the State of Bihar shall be deemed to be continuous if the period elapsed between leaving the service of a University and joining the service of another University does not exceed the normal joining time as prescribed in the service statute.

(d) ***That deficit grant will be paid by the State Govt. only to the lecturer working against posts sanctioned***

on or before 19 Oct, 1982 the colleges affiliated to the University on or before 19.10.82.

(2) ……..

(3) …….

2. Such promotion shall be deemed to be personal promotion, it shall not be automatic but shall be made on the recommendation of the Bihar College Service Commission on consideration of experience & C.C. Roll of the teacher concerned.

Provided that ……....

Provided further that ……..

Also provided that …….

3. ……

4. Where a teacher is promoted to the post of Reader or University Professor, as the case may be, such a promotion shall take effect from the date on which the lecturer entered the 11th year of his qualifying service or the Reader entered the 26th year of his qualifying service, as the case may be, or from the Ist February, 1985, whichever is later.

5……....

6. The post held by the Lecturer or Reader who is promoted to the post of Reader or University Professor shall be deemed to be upgraded with effect from the date of such promotion and shall remain upgraded as such till the incumbent continues to hold the post, but the same shall be converted into the post of Lecturer or Reader, as the case may be, in the event of retirement, resignation, death or otherwise provided that if the post of Reader or Lecturer was itself an upgraded post which was further upgraded as that of Reader or University Professor, the same shall be converted into the Lecturer's post in the event of vacancy.

7. The upgraded post shall be deemed to be a substantive post till the promotee holds it, but any temporary vacancy on the post on account of the promote being on leave or on foreign service or officiating in or hold another post on

> *temporary basis, shall be that of Lecturer or Reader (not being as upgraded post), as the case may be.*
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> *8. The lecturer who is promoted as Reader or the Reader who is promoted as University Professor shall from the date of promotion draw his pay in the higher scale which shall be fixed under the relevant provision of the service statute of the University."*

19. Mr Rishabh Kaushal submitted that in terms of Clause 1(b) the petitioner never held substantive appointment on the post of Lecturer and in terms of Clause 1(d), the financial liability of the State Government would arise only from 01.05.1987 i.e. the date on which the State Government sanctioned the post of Lecturer.

20. In our judgment, on the plain reading of the 1992 statute, the requirement of holding a substantive appointment on the post of Lecturer would arise as of the date on which the case of the original petitioner was being considered for grant of the TBPS. Admittedly, the post held by the petitioner was sanctioned on 01.05.1987. The TBPS has been granted w.e.f. 1989. Thus, in 1989 at least, the original petitioner was substantively holding the post of Lecturer.

21. In any event, given the object of the TBPS, i.e., to provide relief by compensating employees for the stagnation they face, the interpretation suggested on behalf of the appellant cannot be preferred to the interpretation reflected in the impugned judgment and order. There is no dispute about the original petitioner's appointment w.e.f. 21.03.1979. There is no allegation that the original petitioner's appointment was illegal or irregular on account of any procedural infirmities or because the petitioner did not hold the prescribed qualifications. Therefore, it would not be appropriate to exclude the petitioner's service from 21.03.1979 when computing

the 10-year service period as a Lecturer, as prescribed in Clause 1 (c) of the TBPS statute of 1992.

22. In so far as the objection based on Clause 1(d) is concerned, although there is merit in Mr Banerjee's contention about the original petitioner working in the college on or before 19th October 1982 in a college affiliated to the University, still, in our judgment, that issue is not very relevant because the original petitioner is not claiming any salary from the State Government for the period between 21.03.1979 and 01.05.1987. The petitioner seeks only that his service from 21.03.1979 to 01.05.1987 be counted for purposes of determining the 10 years' service necessary to obtain TBPS.

23. The learned Single Judge's decision in C.W.J.C. No. 3495 of 1992(R), relied upon by Mr Rishabh Kaushal, concerned the payment of salaries by the Government. In this context, the learned Single Judge held that, at least from the date the post was sanctioned, i.e. 1st May 1987, the State Government cannot avoid paying salary to the petitioner. The issue of whether service from 21.03.1979 to 01.05.1987 could be counted for the purpose of determining the 10 years' service necessary to obtain TBPS was neither involved nor decided.

24. That, apart from this, we are also satisfied that the decision of the Hon'ble Supreme Court in the case of **Syed Asad Raja and Others (Supra)** supports the original petitioner's case. That case also concerned a minority institution affiliated to the Ranchi University.

25. In paragraphs 5 and 6 of the said decision, the Hon'ble Supreme Court has held as follows:

> *"5.* ***A reading of the above clearly indicate that after coming into force of the Bihar State University Act, 1976 w.e.f. May 16, 1976, it is enjoined that for appointment of a teacher prior approval of the State Government is necessary. However, exceptions have been engrafted in respect of (a) the institution run by the State Government, and (b) institution established by a religious or linguistic minority. Even the non obstante clause in sub-section(2) also makes exceptions to the clauses (a) and (b) of sub-section (1) of Section 35 of the Act. Thus, it could be seen that for the creation of a post in a minority institution for the appointment thereof, prior approval of the University Vice Chancellor or the State Government, is not a Precondition.*** *The question therefore, is whether such an appointee, first respondent is entitled to the payment of the grant-in-aid. By operation of languages, shall have the right to establish an educational institutions for their own choice. Under Clause (2) of Articles 30, the State shall not, in granting aid, to educational institutions, on the ground that it is under the management of a minority whether based on religion or language.*
>
> *6. Thus, it is could be seen that on establishment of an educational institution by the minority, the competent authority is bound to sanction grant-in-aid subject to such regulations as may be available under law to regulate the recruitment contention of Shri B. B. Singh, learned counsel for the appellant is that pursuant to the agreement dated December 15, 1972, it is necessary to obtain prior approval of the Vice Chancellor. This agreement was relevant before the Bihar State University Act, 1976 came into force. After the Act has come into force the agreement no longer subsists. Thus the statute operaes in the field so for long as no regulations have been made. By statutory operation, the respondent is entitled to the payment of grant-in-aid."*

26. The above-quoted passages clarify that, for the creation of a post in a minority institution and for making any appointment

thereto, prior approval of the University Vice Chancellor or the State Government was not a precondition. Therefore, based on the ratio of the Hon'ble Supreme Court's decision in **Syed Asad Raja (Supra)** the learned Single Judge was justified in concluding that there was nothing illegal or irregular in the appointment of the original petitioner w.e.f. 21.03.1979 and consequently, there was no good reason to exclude the period between 21.03.1979 and 01.05.1987 for purposes of computing the 10-year service requirement for award of TBPS.

27. The learned Single Judge's view aligns with the principles of justice, equity and good conscience. It further the TBPS policy of compensating employees who experience stagnation during their service careers. The grant of a benefit under the TBPS does not constitute an in situ or actual promotion. In **Amresh Kumar v. State of Bihar, *2023 INSC 427*,** the Hon'ble Supreme Court held that ACP/MACP schemes do not involve the grant of actual promotions but merely the grant of financial benefits to compensate for stagnation. Therefore, even the educational qualifications prescribed for actual promotion do not apply.

28. The learned Single Judge has also held that the State Government, on its own, granted relief to Sri L.N. Chaubey, Lecturer in Chemistry, without raising the objections now sought to be raised in the original petitioner's case. In that case, the 10-year service was computed from the date of his appointment by the College Governing Body, not from the date on which the post to which he had been appointed was sanctioned by the State Government. The learned Single Judge held that the State cannot

treat equals unequally, as that would amount to discrimination. Since no explanation was forthcoming, this is an additional ground for sustaining the impugned judgment and order.

29. Recently, the Hon'ble Supreme Court, in **R Saravanan vs Periyar University, represented by its Registrar and Others (*2026 INSC 1136),*** held that a Letters Patent Bench can interfere only where the findings are demonstrably erroneous and the mistake is glaring on the face of the record. There must be cogent grounds, and such grounds are not made out on account of some minor mistake in the judgment under challenge. The Letters Patent Bench is not entitled to interfere with the decision of the writ Court on a mere showing of an error of fact or of law. If the decision rendered by the writ Court in exercise of the powers under Article 226 of the Constitution of India is in furtherance of justice, equity and good conscience and is not against public policy, then the Letters Patent Bench constituted under Clause 15 of the Letters Patent of the Madras High Court, or similar provisions of the Letters Patent of other High Courts, cannot exercise its appellate jurisdiction under the Letters Patent to interfere with the writ Court's decision. Simply put, the Letters Patent Bench cannot interfere with the decision rendered by the writ Court which is otherwise just and reasonable.

30. In the present case, we have examined the decision of the learned Single Judge, and we are satisfied that the well-reasoned decision warrants no interference by the Letters Patent Bench. The view taken by the learned Single Judge is not only just and

reasonable but also aligns with the binding decision of the Hon'ble Supreme Court in **Syed Asad Raja (supra).**

31. Accordingly, we find no good ground to interfere with the Learned Single Judge's impugned judgment and order.

32. For these reasons, we dismiss this appeal without any order for costs. IAs, if any, do not survive and are disposed of.

(M.S. Sonak, C.J.)

(Manoj Prasad, J.)

October 29, 2026

Pramanik/Anjali
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