IN THE HIGH COURT OF JHARKHAND, RANCHI

W.P.(S) No.2826 of 2020

Prof. Dr. Jagdish Prasad Mishra @ Jagdish Mishra, aged about 63 years, son of late Yadunandan Mishra, resident of Alkapuri, Ratu Road, Ranchi, PO-GPO, PS-Sukhdeonagar, District- Ranchi, Jharkhand ***..... Petitioner***

-- Versus --

1. The State of Jharkhand through the Secretary, Department of Higher and Technical Education and Skill Development Department, H.R.D., Government of Jharkhand, Yojna Bhawan, Nepal House, Doranda, Ranchi-2, P.O. and P.S.-Doranda, District-Ranchi (Jharkhand).

2. The Director, Higher and Technical Education and Skill Development Department, H.R.D., Government of Jharkhand, Yojna Bhawan, Nepal House, Doranda, Ranchi-2, P.O. and P.S.-Doranda, District-Ranchi (Jharkhand).

3. Ranchi University, Ranchi through its Vice-Chancellor, Main Road, Ranchi, P.O.-G.P.O., P.S.-Kotwali, District-Ranchi (Jharkhand).

4. The Registrar, Ranchi University, Ranchi, Main Road, Ranchi, P.O.-G.P.O., P.S.-Kotwali, District-Ranchi (Jharkhand).

..... Respondents

CORAM: HON'BLE MR. JUSTICE S ANJAY KUMAR DWIVEDI

For the Petitioner(s) :- Dr. Shree Krishna Pandey, Advocate
Mr. Niladri Shekhar Mukherjee, Advocate
Mr. Aman Mukherjee, Advocate
Mr. Pankaj Kumar, Advocate
Mrs. Sandhya Singh, Advocate

For Ranchi University :- Mr. Amit Kumar Sinha, Advocate

For the State :- Mr. Kishore Kumar Singh, S.C.V

C.A.V On 18.09.2026 ***Pronounced On : 05/10/2026***

Heard Dr. Shree Krishna Pandey, the learned counsel for the petitioner, Mr. Amit Kumar Sinha, the learned counsel for the respondent-Ranchi University and Mr. Kishore Kumar Singh, the learned S.C.V for the State.

2. This petition has been filed under Article 226 of the Constitution of India for quashing of the impugned order dated 18.04.2019 as contained in Annexure-9 to this petition whereby the proposal for approval of the petitioner's pay-fixation in 5th U.G.C. pay-scale with effect from 01.01.1996 dated 22.08.2009 has been rejected.

3. Mr. Pandey, the learned counsel for the petitioner submits that petitioner has earlier moved before this Court in W.P.(S) No.1055 of 2015 which was disposed of by order dated 3.12.2018 without entering into the merit of the claim of the petitioner directing the respondents to take a decision on the basis of the requisition of Ranchi University, Ranchi within a period of six weeks from the date of receipt /production of a copy of that order and re-allocate the necessary funds to Ranchi University, Ranchi for onwards disbursement to the petitioner as per admissibility. He submits that thereafter the impugned

order has been passed.

4. Mr. Shree Krishna Pandey, the learned counsel appearing on behalf of the petitioner has submitted that the petitioner is an M.A., Ph.D. (18.12.1992) in Sanskrit duly appointed much before the cut-off date of 30.04.1986, joined in Mandar College, Mandar on 03.07.1985 as Lecturer/Assistant Professor against a recommended posts subsequently sanctioned by the Government in the year 1989 and is continuing in service without any break for long 35 years. He next submits that subsequently, he did two refresher courses in the year 1999 and 2007 and one orientation course in the year 2002 from Academic Staff College, Ranchi University, Ranchi. According to him, Government policy decision in the year 1986 with 40 similar affiliated colleges, Mandar College, Mandar was made a College Ranchi University, Ranchi, constituent college known as newly constituent colleges (N.C.C.) of fourth phase. He submitted that in light of report of 5-members of High Level Government Committee comprising of Vice-Chancellors, D.P.J, Chairman Inter University Board, Director H.R.D., based on all records of the conversion process and the report of the University Level Committee, the Government resolved to absorb the services of N.C.C. Colleges' teachers against

sanctioned posts and notified the same vide letter no.-181/c dated 18.12.1989, wherein the petitioner stands at serial no.5 as contained in Annexure-2 to the petition. He submitted that Hon'ble Patna High Court vide Judgment and Order dated 31.01.1997 in CWJC No.4021/1995 ***Shikshak Avam Shikshkottar Karamchari Kalyal Mahasangh, through its President Dr.Papesh Nath Choubey v. State of Bihar and Ors., 1997 1 PLJR 533*** directed the Universities for taking steps for absorption of teaching and non-teaching employees, of which Annexure-5 was the list of absorbed teachers vide Government notifications dated 01.02.1988 and 18.12.1983, including name of the petitioner, directing that steps be taken U/S-4 (14) of Bihar State Universities Act, in accordance with the Communication of State Government, per Judgment and provisions U/S-4(14) of the Act, status-quo was directed to be continued.

5. Mr. Pandey, learned counsel for the petitioner submitted that in the aforesaid background, Chancellor of the Universities vide order as in letter dated 07.05.1997 asked the universities to go into the matter of absorption/ regularization of the services of teachers N.C.C. Colleges of IVth phase and that in the light of judgment and order dated 31.01.1997 in C.W.J.C. No. 4021 of 1995. He submitted that, accordingly, Nine-Member Committee was

constituted by Respondent No.3,Ranchi University, Ranchi and submitted an exhaustive report in the light of aforesaid judgment. He submitted that Ranchi University, Ranchi/Respondent No. 3 in pursuance to Nine Member Screening Committee report and its Recommendations notified the absorption of Teachers of Mandar College, Mandar, Ranchi University vide Memo No.RU/VC/R/2937/98 dt.25.06.1998 wherein petitioner is at Sl.No.16 as contained in Annexure-3 to the petition. He submitted that said judgment dated 31.01.1997 passed in C.W.J.C. No. 4021/1995 was challenged before the Hon'ble Supreme Court by the State Government, which was decided vide judgment and order dated 12.10.2004 in C.A. No. 6098 of 1997 in **State of Bihar v. Bihar Rajya M.S.E.S.K.K. Mahasangh and Others reported in *(2005)9 SCC 129*.** He submitted that the Hon'ble Supreme court was pleased to upheld and confirmed judgment dated 31.01.1997 passed in C.W.J.C. No.4021 of 1995 and validated Government orders dated 01.02.1988 and 18.12.1989, held Section-4(14) of said Act is an Non-obstante clause and exclusive jurisdiction of Universities in matter of absorption/ regularization of teachers' services of the IVth phase of N.C.C. Colleges while accepting report and recommendations of Hon'ble

Justice S.C. Agrawal Commission's Report, which considered entire matter as per the Apex Court's order passed in the case of State of ***Bihar v. Bihar Rajya M.S.E.S.K.K. Mahasangh and Others*** (supra), particularly in the paras-54, 59, 60, 61, 62, 64, 73. He submitted that there were 05 sanctioned posts of Sanskrit in Mandar College, Mandar against which Prof. R.K. Walia, Prof. C.B. Shahi, Prof. Ranju Lal, Prof. Yashoda Kumari Binha and Dr. Jagdish Mishra @ Jagdish Prasad Mishra were absorbed by the Government vide letter dated 18.12.1989 and by the University vide memo dated 25.06.1998. He submitted that Prof. C.B. Shahi died due to accident on 09.02.1990 and Prof. Yashoda Kumari left the College in the year 1999. Thus, two sanctioned posts became vacant and remaining 03 sanctioned posts, Dr. R.K. Walia, Prof. Ranju Lal and Prof. Dr. Jagdish Mishra were working. He submitted that Respondent No. 3 and 4 in spite of the post-status as above regularized the petitioner against a sanctioned post which become vacant after death of Prof. C.B. Shahi (already regularized w.e.f. 29.11.1986) on 09.12.1990, vide Memo No. RU/VC/R/319/05 dated 05.08.2005 as contained in Annexure-4 to the petition. He submitted that although the petitioner was absorbed and regularized against the

sanctioned posts vide letters dated 18.12.1989 and 25.06.1998.

6. Mr. Pandey, the learned counsel for the petitioner further submitted that the H.R.D. Department of the Government, the Respondent No.2 created and sanctioned 327 additional posts w.e.f. cut-off date vide Letter No. 717 dated 01.12.2008 to absorb the services of teachers of N.C.C. Colleges of IVth phase to re-distribute and rationalize by way of transfer with posts in the colleges facing shortage of hands as contained in Annexure-5 to the petition. By way of referring Appendix-01 to the Government letter dated 01.02.2008, he submitted that it is evident that 03 sanctioned posts in Sanskrit in Mandar College, Mandar existed as on 01.12.2008, while 03 teachers were working in the department of Sanskrit namely, Prof. Dr. R.K. Walia, Prof. Ranju Lal and, Prof. Jagdish Prasad Mishra. He submitted that with this status of 3 sanctioned posts and 03 teachers working in Mandar college, Mandar as on and till 07.03.2009, there was no reason and justification to absorb the service of the petitioner on plea of available post (but not specified) in K.C.B. College, Bero instead of Mandar College, Mandar, the original employer college of the petitioner as done vide Memo No. RU/VC/R/501/09

dated 07.03.2009 of the Respondent No. 3 and 4 of Mandar college, Mandar as contained in Annexure-6. He submitted that out of 05 sanctioned posts in Sanskrit in Mandar College, Mandar 03 posts were vacant as on 07.03.2009 after death of Prof. C.B. Shahi on 09.12.1990 and leaving the College by Prof. Yashoda Kumari Binha in the year 1999. He submitted that even, per Appendix-1 of the Government letter dated 1.12.2008 (Annexure-6) 3 sanctioned posts of Sanskrit existed on that date as identified by the Hon'ble Justice S.C. Agrawal Commission and Hon'ble Supreme Court. Against this post-status of Sanskrit in Mandar College, Mandar there were only 3 teachers giving no occasional reason to absorb the petitioner in another College, K.C.B. College, Bero, an apparent arbitrary decision, resulting in great monetary loss and unreasonable inconvenience like non-approval of his pay-fixation in the 5th U.G.C. pay-scale as proposed by the Respondent No. 3 and 4 to the Respondent No. 2 vide Letter No. B/835/09 dated 22.08.2009 as contained in Annexure-7.

7. In the aforesaid background, Mr. Pandey, the learned counsel appearing for the petitioner submitted that vide notification dated 18.12.1989, 25.06.1998 and 05.08.2005 by the respondents against sanctioned vacant

post, in Mandar College, Mandar, the 4th absorption/regularization dated 07.03.2009 in K.C.B. College, Bero without stating the reasons as to what necessitated the same for departure when two teachers, including the petitioner were working and out of 05 sanctioned posts 03 posts were still lying vacant and were available, and in spite of that the petitioner has been regularized further by notification in K.C.B. College, Bero which is an arbitrary action. He submitted that the petitioner has made repeated representations by way of Annexure-8 to rectify his post, however, that has not been done.

8. Mr. Pandey, the learned counsel for the petitioner submitted that in light of above facts, the impugned order rejecting the proposal for approval of the Pay Fixation of the petitioner in 5th UGC Pay Scale with effect from 01.01.1986 on the sole ground of regularization of the petitioner in K.C.B. College, Bero instead of Mandar College, Mandar wrongly stating to be in line of order dated 11.07.2014 of the Hon'ble Justice S.B. Sinha Commission and Apex Court dated 31.08.2017 in C.A. No. 2703 of 2017, wherein the petitioner was not a party. He submitted that in view of earlier absorption of the petitioner, the services are required to be counted with

effect from regularization which has not been done and the impugned order is bad in law and the reasons provided is erroneous.

9. He next submitted that the reasoned impugned order dated 18.04.2019 while rejecting Pay Fixation proposal made vide letter dated 5.8.2005 of the respondent no.4, on the ground of anomalous regularization dated 7.3.2009 of the petitioner in K.C.B College, Bero instead of Mandar College, Mandar the original employer College, respondent no.2 was himself a party originator as is evident from the regularization notification and his letter dated 1717 dated 1.12.2008 by which it was decided and directed for absorption/ regularization from another college by way of transfer with post. He submitted that the respondent nos.3 and 4 mis-considered the post status in Sanskrit in Mandar College, Mandar with vacant sanctioned posts, the same was also identified by the Hon'ble Justice S.C. Agarwal Commission and the apex court. By way of emphasizing his argument, he further submitted that the regularization dated 07.03.2009 was resolved by the Syndicate of the Respondent no.3 to which the respondent no.2, the author of the impugned order dated 18.04.2019 was an ex-officio permanent member being equally responsible

for resolution dated 07.03.2009 and regularization of the petitioner in another college, e.g., K.C.B. College, Bero in stead of Mandar college, Mandar when 3 posts were already sanctioned vacant.

10. Dr. Pandey, the learned counsel for the petitioner has summed up his argument stating that, (i) three existed and three sanctioned vacant posts of Sanskrit in Mandar college, Mandar identified by Hon'ble Justice S.C. Agrawal Commission also.; (ii) The Petitioner was already absorbed and regularized against sanctioned post under Section 4(14) of the act as well as on 18.12.1989, 25.06.1998 and 05.08.2005; (iii) While regularizing the Petitioner's service in the light of provisions and order's stated, therein, vide notification dated 07.03.2009 (Annexure-5), the same should must have been in his original Mandar College, Mandar against one of the 03 vacant sanctioned posts in Sanskrit, instead of in K.C.B. College, Bero without any cogent and specified reason; (iv) When pointed out and represented the anomaly and wrong done would have been rectified, but was not done by the respondents to which all were the authors in syndicate; (v) Further, for the Respondent No. 3 and 4 mis-considered the Government notification as Letter No. 717 dated 01.12.2008 (Annexure-5) paras-6 to 7 and

Letter No. 718 dated 08.05.2013; (vi) The reasoned impugned order dated 18.04.2019 forgot the above facts and errors, done by the respondents themselves and rejected approval-proposal for pay-fixation mechanically without application of mind; (vii) The Petitioner was not before Hon'ble Justice S.B. Sinha Commission and Hon'ble Supreme Court in the matter, he being already absorbed there was no need; (viii) Therefore, orders dated 11.07.2014 and 31.08.2017 in C.A. No. 2703 of 2017 are not applicable in Petitioner's pay-approval matter more, so their being prospective; (ix) There being out of 05, 03 posts sanctioned in Sanskrit still vacant, even that identified by the Hon'ble Justice Agrawal Commission and Hon'ble Supreme Court all deciding authorities should have taken in consideration, but somehow missed; (x) In view of the above, the regularization notification dated 07.03.2009, if anomalous is within the power of the Respondent No. 3 and 4 for rectification as pointed out and (xi) The impugned order dated 18.04.2019 rejecting the approval-proposal dated 22.08.2009 is erroneous, unreasonable, incongruous and punitive and violatory of statutory provisions, principle of natural justice and fundamental rights granted under the Articles 14, 16, 21, 39(1)(d) and 300A, Chancellor's directions dated

10.11.2008, being arbitrary obnoxious, illegal and mala-fide, mechanically passed, taking away the rightful pay-scale and salary with all consequential service benefits, is liable to be quashed with directions upon the respondents to rectify the notification dated 07.03.2009 (Annexure-6) and proposal for approval of pay-fixation dated 22.08.2009 (Annexure-7) and order for regular salary payment with entire arrears illegally stopped as stated above.

11. Lastly, Mr. Pandey, the learned counsel submitted that in identical situation one Uday Kumar has moved before this Court in W.P.(S) No.2985 of 2018 and the Coordinate Bench of this Court has allowed the said petition and he refers to paragraph nos.10,17,19,21,22 and 23 of the judgment. He submitted that after the order of the Coordinate Bench in the Case of Uday Kumar, Uday Kumar has got all the benefits, however, the petitioner has been deprived and, on these grounds, he submitted that this petition may kindly be allowed.

12. On the other hand, Mr. Amit Kumar Sinha, the learned counsel appearing on behalf of the respondent Ranchi University submitted that the accountability part of the Ranchi University has been complied and now with respect to redressal of the grievance of the petitioner, the

action has been taken by the State Government by the Secretary, Higher and Technical Education and Skill Development Department, Government of Jharkhand. He submitted that by way of Annexure-7 to the writ petition, the respondent Ranchi University has already recommended for the pay fixation of the petitioner to the Government of Jharkhand.

13. Mr. Kishore Kumar Singh, the learned counsel appearing on behalf of the respondent State submitted that petitioner has been regularized by the University thrice on different dates. He submitted that vide notification no.2937 dated 25.06.1998 the petitioner was regularized in Mandar College, Mandar and thereafter the petitioner was regularized vide notification no.319 dated 05.08.2005 in Mandar College, Mandar and thereafter lastly again vide notification no.501 dated 7.3.2009 vide Annexure-6 the petitioner was regularized in KCB College, Bedo. He submitted that since the University is the custodian of the service records of its employees as such to understand the case of the petitioner vide letter no.2047 dated 09.12.2022 and letter no.651 dated 14.03.2023 the answering respondent as requested the University to provide the details. He next submitted that since till date the respondent University has not

responded to the queries raised by the answering respondent and as such, the answering respondent is not in a position to examine the case of the petitioner. On these grounds, he submitted that rightly the impugned order has been passed.

14. In view of the above submission of the learned counsels appearing on behalf of the parties, the Court has gone through the materials on record including the annexures, it transpires that the petitioner was regularized vide notification no.319 dated 05.08.2005 in Mandar College, Mandar and thereafter lastly again vide notification no.501 dated 7.3.2009 vide Annexure-6, and three sanctioned posts were already vacant, however, the petitioner has been transferred to KCB College, Bedo. The regularization dated 07.03.2009 was resolved by the Syndicate of the Respondent no.3 to which the respondent no.2, the author of the impugned order dated 18.04.2019 was an ex-officio permanent member being equally responsible for resolution dated 07.03.2009 and regularization of the petitioner in another college, e.g., K.C.B. College, Bero instead of Mandar college, Mandar when 3 posts were already sanctioned vacant and in the subsequent decision he has passed the subsequent order which is further contrary to his own action. It has been

pointed out that the petitioner has already been retired and if any wrong has been done, that has been done by the respondent University and the State, and in view of his retirement, the appointment and absorption of the petitioner cannot be the matter of challenge as it is the fault of the respondent University and not of the petitioner and the respondent University is having the power and privilege to adjust the petitioner. The respondent -Ranchi University, Ranchi/ the Respondent No. 3 in pursuance to the Nine Member Screening report and its Recommendations notified the absorption of Teachers of Mandar College, Mandar, Memo vide Ranchi University, Ranchi RU/VC/R/29371 dated 25.06.1998 whereas the petitioner is at Sl. No.16 as contained in Annexure-3 to the petition. It is apparent from the Annexure-6 to the petition that in view of the notification dated 07.03.2009, and in view of the Resolution No.717 dated 01.12.2008 and letter no.732 dated 3.12.2008 of Human Resource Development Department, Government of Jharkhand and in continuance of Ranchi University Notification Memo Nos.RU/VC/R/237/05 dt. 1.3.2005 and the notifications dated 9.6.2005, 5.8.2005 and 29.11.2005 that Dr. Kajal Rekha Dutta, Sri Uday Kumar and Mrs. Malin Prasad were there in the said notification at serial nos.2, 7

and 12 respectively who were there in the K.C.B. College, Bedo and they have already been provided the benefits of the Pay Fixation as has been pointed by the learned counsel appearing for the petitioner. When the three persons arising out of the same notification have been allowed the said benefit, there is no reason why the petitioner will not be provided the same benefit and wherein at sl.8 of the said notification, the name of the petitioner is there. It is clear that in Mandar College, Mandar three sanctioned posts were vacant and in spite of the said vacancy, the petitioner was posted in Bero College, Bero which is the act of the respondent University for that the liability cannot be fastened upon the petitioner who is a retired employee.

15. The impugned action of the respondent State would also be against the directive principles enshrined under Part IV of the Constitution of India. Article 39 (a) provides that the policy of the State should secure that the citizens have the right to an adequate means to livelihood and the State is under the negative obligation under Article 39(a) of the Constitution not to deprive a retired employee of his rights to retiral benefits after such a long period on a ground which they have never raised although such a ground was available from inception and

the employee having discharged his duties successfully with unblemished records. In case of an employee, the means of livelihood after superannuation are the retiral benefits, and therefore, any illegal action which would impinged on the same would be unconstitutional.

16. In view of the above facts, reasons and analysis, the impugned order dated 18.04.2019 is, hereby, quashed.

17. The respondent State as well as the respondent Ranchi University, Ranchi, are directed to grant the retiral benefits to the petitioner by revising the Pay Scale as per the Vth, VIth and VIIth P.R.C. and also extend the consequential benefits accrued to the petitioner in accordance with law.

18. Let the entire exercise be completed within 12(twelve) weeks from the date of receipt/ production of a copy of this order.

19. This writ petition being W.P.(S) No.2826 of 2020 is allowed, in the above terms, and disposed of.

(Sanjay Kumar Dwivedi, J.)

Jharkhand High Court,
at Ranchi,
SI/ A.F.R
Dated 05/10/2026
Uploaded/ 06.10.2026