

(2002) 04 JH CK 0019

In the Jharkhand High Court

Case No : Writ Petition (S) No. 3478 of 2001

Dr. Mrs. Shashi Prabha Sinha and Another

APPELLANT

Vs

Vinoba Bhave University Hazaribagh and Others

RESPONDENT

Date of Decision : 24-04-2002

Acts Referred:

Citation : (2002) 04 JH CK 0019

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : S.K. Ughal, for the Appellant; M.S. Anwar, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—The petitioners were working as Professor and receiving salary of the post of professor from the Vinoba Bhave University (University for short), When it came to the notice of the University that their promotions as professor were provisional, they were reduced in the rank of reader and it was ordered to recover the excess amount from their salary.

2. The case of the petitioners is that they are eligible for promotion to the posts of Professor from the date they were granted promotion provisionally. As per the decision of the Supreme Court in Civil Appeal Nos. 6246/99 and 6247/99, their cases should have been considered for regular promotion. No action was taken by the University for years together and recently when their cases were referred by the University on 31.3.2001, the Bihar State Universities (Constituent College) Service Commission, Patna considered their cases for regular promotion to the posts of professor and recommended their names for promotion w.e.f. 24.2.1987 (petition No. 1) and 13.8.1988 (petitioner No. 2) respectively vide letters dated 19.12.2001 and 20.9.2001.

3. On the other hand, the case of the respondents is that the promotion of petitioners to the post of professor was provisional. As per the provision of Bihar State Universities Act, 1976 (now Jharkhand State Universities Act, 2000) such provisional promotion can continue only for a period of six months. It is only on

the recommendation of the State Universities (Constituent College) Service Commission a person can be given regular promotion.

4. So far as the recommendation already made by the Bihar State Universities (Constituent College) Service Commission. Patna is concerned, according to respondent-University, after promulgation of Jharkhand State University Act, 2000, the Bihar State Universities (Constituent College) Service Commission has no jurisdiction to recommend, nor the petitioners can be granted regular promotion only on such recommendation. It is only the Jharkhand State Universities (Constituent College) Service Commission, Ranchi whose recommendation can be acted upon.

5. The counsel for the petitioner pointed out that no State Service Commission has been constituted for the University and Colleges by the State of Jharkhand after reorganisation of the State. Learned Advocate General on behalf of the State as also the counsel for the University accepted that no such commission has been constituted. Thus, the statutory provision to grant regular promotion on the recommendation of the Jharkhand State Universities (Constituent College) Service Commission, Ranchi cannot be given effect and such provision of law for all purpose is redundant for the present.

6. In the facts and circumstances, the respondents are directed not to recover any amount from the salary of the petitioners on the ground that they have not been regularly promoted as professor. If they were working and receiving the salary in the scale of professor prior to impugned re-fixation made in the year, 2000, they be allowed to continue as professor and be paid salary in the scale of professor till a Commission as per provision of the Jharkhand State University Act, 2000 is constituted and cases of petitioners are considered in accordance with law.

7. The aforesaid interim arrangement be followed in view of the fact that the Commission which was competent to recommend the names of petitioners for promotion to the posts of Professor as on 24.2.1987 and 13.8.1988 has already recommended their names for promotion but such recommendation cannot be given effect in view of re-organisation of the State and as no Commission of the University Colleges has been constituted for the State of Jharkhand.

8. If any amount deducted from the salary of the petitioners in the meantime, be also refunded to the petitioners within six weeks, subject to the decision of regular promotion as may be taken on the recommendation of a competent commission.

9. The writ petition stands disposed of, with the aforesaid observations.