
(2013) 03 JH CK 0088
In the Jharkhand High Court
Case No : WP (S) No. 661 of 2011

Dr. Sanjoy Misra

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-03-2013

Acts Referred:

Citation : (2013) 2 JLJR 316

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Rajiv Ranjan, Vishal Kr. Trivedi and Shresth Gautam, for the Appellant; Anoop Kr. Mehta and Amit Kr. Sinha for the Ranchi University, for the Respondent

Final Decision : Allowed

Judgement

Narendra Nath Tiwari, J.—In this writ petition, the petitioner has prayed for direction on the respondents to pay arrears and current salary in the scale of University Professor. It has been stated that the petitioner is holding the post of University Professor in Chemistry in Ranchi College under Ranchi University.

2. The petitioner is aggrieved by forward shifting of the date for counting length of his service to his prejudice. The respondents are counting the length of his service for time bound promotion, with effect from the date of his substantive appointment, whereas the petitioner claims the length of service from the date of his initial appointment i.e. 9th March, 1979.

3. The respondents have taken plea that the period of temporary service cannot be taken into consideration for computing his past service for the purpose of giving time bound promotion. The services of the petitioner is countable with effect from the date of substantive appointment.

4. The case of the petitioner is that the petitioner was appointed as Lecturer in Chemistry in Jagarnath Nagar College, Dhurwa, Ranchi (hereinafter to be referred as "the College"), following the due procedure of selection, on 9th

March, 1979. The Bihar University Service Commission accorded concurrence in view of the petitioner's appointment against the substantive post. The College was made a constituent unit of Ranchi University in December, 1980. The University Selection Committee recommended the petitioner's name for regular appointment on 7th January, 1982. By order dated 20.8.1999 (Annexure-4), the petitioner was given promotion to the post of Reader under "Eight Years Merit Promotion Scheme", on regular basis, on the recommendation of Bihar State University Service Commission with effect from 9.3.1987. The petitioner was considered for promotion under "Eight Years Merit Promotion Scheme" and was given promotion under the said provision with effect from 9th March, 1987 on the recommendation of Bihar State University Service Commission. The petitioner was further promoted to the post of University Professor in Chemistry on regular basis with effect from 9.3.1995. The respondents suddenly shifted his date of promotion as Reader from 9.3.1987 to 7.1.1990.

5. Learned counsel appearing on behalf of the respondents opposed the writ petition and supported the impugned order by reiterating the grounds, which are mentioned in the counter affidavit.

6. I have heard learned counsel for the parties and considered the facts and documents on record.

7. The respondents, without taking into consideration the observation and the ratio laid down in the case of Dr. (Mrs.) Rafat Ara Vs. Ranchi University and Others, have shifted the date of the petitioner's initial appointment and promotion vide letter dated 3.3.2003 (Annexure-8).

8. The impugned order is not only contrary to the decision of Dr. (Mrs.) Rafat Ara's case (supra), but is also contrary to the order dated 1.3.2013, passed in W.P.(S) No. 2241 of 2010 and the same is wholly illegal and unsustainable.

9. Dr. (Mrs.) Rafat Ara's case (supra) as well as in Dr. Anant Kumar Akhoury Vs. The Vice Chancellor, Ranchi University, Ranchi and Others, are impliedly upheld by the Hon'ble Supreme Court by dismissing Special Leave to Appeal (Civil) No. CC 11707 of 2012.

10. In the said decision, it has been clearly held that temporary service shall be also counted for considering length of service for the purpose of giving time bound promotion and for all other purposes if the service is continuous.

11. In the present case, admittedly, the petitioner is in continuous service since the date of his initial appointment i.e. 9.3.1979. The said appointment was confirmed by the Ranchi University as also by the Bihar State University Service Commission.

12. In view thereof, there was no scope for the respondents to exclude the period of service, from the date of initial appointment till his substantive appointment, in computing length of the petitioner's service.

13. The part of impugned order dated 3rd March, 2003 (Annexure-8) contrary to the said decision is wholly illegal and unsustainable and is hereby quashed.

14. It is held that since the petitioner has been in continuous service from the date of his initial appointment dated 9th March, 1979, entire period of service from that date is computable for the purpose of determining length of his service. Accordingly, the petitioner is entitled for all consequential benefits, including fixation of pay scale(s) on that basis.

15. The respondents are directed to fix the petitioner's pay by correcting the date of his promotion, accordingly, within four weeks from the date of receipt/production of a copy of this order and pay the arrears/difference of pay within four weeks thereafter. This writ petition is allowed with a cost of Rs. 20,000/- (rupees twenty thousand) to be paid to the petitioner by the respondents within four weeks from the date of receipt/production of a copy of this order.