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**(2013) 04 JH CK 0024**  
**In the Jharkhand High Court**  
**Case No : WP (S) No. 3426 of 2011**

Indra Kumar Choudhary

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

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**Date of Decision :** 18-04-2013

**Acts Referred:**

**Citation :** (2013) 4 JLJR 340

**Hon'ble Judges :** Narendra Nath Tiwari, J

**Bench :** Single Bench

**Advocate :** Rahul Kumar, for the Appellant; A.K. Mehta for the University, for the Respondent

**Final Decision :** Disposed Off

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## Judgement

Narendra Nath Tiwari, J.—The petitioner is holding the post of University Professor in P.G. Department of History in Ranchi University, Ranchi. The petitioner is aggrieved by forward shifting of the date in 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 that the length of his service is computable from the date of his initial appointment i.e. 3rd January, 1979.

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

3. The case of the petitioner is that the petitioner was appointed as Lecturer in History in Ranchi College, Ranchi (hereinafter to be referred as "the College"), following the due procedure of selection, on 3rd January, 1979. The Bihar University Service Commission accorded concurrence in view of the petitioner's appointment against the substantive post in a constituent college i.e. Ranchi College, Ranchi. The services of the petitioner was, in the meantime, confirmed

by Ranchi University from the date of his initial appointment. By order dated 17th May, 1996 (Annexure-3), 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 3rd January, 1987. The petitioner was further promoted to the post of University Professor in History on regular basis with effect from 3rd January, 1995. The respondents suddenly shifted his date of promotion as Reader, showing date of promotion as 1st January, 1989 in place of 3rd January, 1987.

4. The petitioner has challenged the said order dated 3rd May, 2011 (Annexure-15) in this writ petition.

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

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

7. In W.P.(S) No. 4683 of 2006 similar order passed by the respondents was challenged. The said writ petition was disposed of by order dated 16th July, 2009, observing that the case is squarely covered by the decision in Dr. (Mrs.) Rafat Ara Vs. Ranchi University and Others, and the view taken by the State Government is contrary to the decision of this Court in Dr. (Mrs.) Rafat Ara's case (supra).

8. The order was quashed by this Court and the respondents were directed to re-examine the matter and take a fresh decision in accordance with the said decision.

9. The respondents, without taking into consideration the said observation and the ratio laid down in Dr. (Mrs.) Rafat Ara's case (supra), have repeated the same terms.

10. 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 16th July, 2009 passed in W.P.(S) No. 4683 of 2006 and the same is wholly illegal and unsustainable.

11. Dr. (Mrs.) Rafat Ara's case (supra) as well as in Dr. Anant Kumar Akhouri 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.

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

13. In the present case, admittedly, the petitioner is in continuous service since

the date of his initial appointment i.e. 3rd January, 1979. The said appointment was confirmed by the Ranchi University as also by the Bihar State University Service Commission.

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

15. The impugned order dated 3rd May, 2011 (Annexure-15) contrary to the said decision is wholly illegal and unsustainable and is hereby quashed.

16. Learned S.C.-II, at this stage, informed that the Directorate of Human Resources Development Department has already issued a circular by Letter No. 528 dated 2nd April, 2013 and the petitioner's grievance shall be redressed by computing the length of service from the date of his initial appointment.

17. Having heard learned counsel for the parties and considering the facts and material on record as well as submissions made by the parties, this writ petition is disposed of holding that there being no break in service from the date of his initial appointment dated 3rd January, 1979, entire period of the petitioner's service from that date is computable for the purpose of determining length of his service and the petitioner is entitled for all consequential benefits, including fixation of pay scale(s) on that basis. 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.