

IN THE HIGH COURT OF JHARKHAND AT RANCHI**W.P.(S). No. 6598 of 2013**

Rajendra Kumar, aged about 76 years, son of late Sukhdeo Kumar, resident of village Pattichak, Pirojpur, P.O. & P.S. Meharna, Dist. Godda.

..... **Petitioner**

Versus

1. The State of Jharkhand
2. The Principal Secretary, Human Resources Development Department, Govt. of Jharkhand Project Building, P.O. Dhurwa, P.S. Jagarnathpur, Dist. Ranchi.
3. The Deputy Secretary, Human Resources Development Department, Govt. of Jharkhand Project Building, P.O. Dhurwa, P.S. Jagarnathpur, Dist. Ranchi.
4. The Vice Chancellor, Siddhu Kanhu Murmu University, Dumka, P.O., P.S. & District Dumka.
5. The Registrar, Siddhu Kanhu Murmu University, Dumka, P.O., P.S. & District Dumka.

..... **Respondents.**

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner	:	Mr. Bhanu Kumar, Advocate Mr. Prabhakaran Munda, Advocate
For the State	:	Mr. Divyam, AC to SC-IV
For the University	:	Mr. Mithilesh Singh, Advocate

C.A.V. on 25.02.2026**Pronounced on 18/04/2026**

Heard the parties

2. Instant writ application has been filed with following relief:

i) For issuance of an appropriate writ(s)/order (s)/direction(s) or a writ in nature of certiorari for quashing the impugned paragraph no.1 of the letter no. 593 dated 15.08.2012 issued under the signature of Deputy Secretary, Human Resource Development Department, Jharkhand so far as it relates to grant of only notional benefit in pay fixation with effect from 28.2.1982 and not paying the actual arrears of difference of salary from the of 28.2.1982, initial date because the same is wholly illegal.

ii) For issuance of an appropriate writ(s)/order (s)/direction(s) or a writ in the nature of Mandamus commanding upon the respondents for making payment of difference of arrears of salary with interest on account of 5th pay revision which has not been paid to the Petitioner till date.

iii) For issuance of an appropriate writ(s)/order (s)/direction(s) or a writ in Mandamus commanding nature of upon respondents for payment of difference of arrears of salary with interest after fixing the pay-scale of the Petitioner on the basis of 6th pay revision and also for revision of pension and making payment of difference of arrears of post retiral benefits on the basis of the 6th pay revision which has not been paid to the Petitioner till date although the Petitioner has already retired with effect from 31.3.2010 after attaining the age of 62 years.

iv) For any other consequential relief or relief (s) to which the Petitioner is duly entitled in the eyes of law considering the facts and circumstances of the case.

v) For issuance of a further writ/order/direction or a writ of certiorari for quashing of impugned corrigendum as contained in memo No.488, dated 27.2.19 (Annexure-11 to this Application) which has been issued by the Director, Higher Education, Jharkhand, by which the date of regularization of the Petitioner to the post of Lecturer in SRT College, Dhamri has been changed from 28.02.82 to 29.2.2008 because the aforesaid corrigendum is wholly illegal and without jurisdiction.

3. The brief facts of the case as per the pleadings are that in the year 1961 S.R.T College, Dhamri was established and in the year 1963-64 it was granted temporary affiliation by the Bhagalpur University. In the year 1979 the governing body of the college invited applications for appointment on the post of lecturer under science faculty. The petitioner applied fulfilling all the eligible criteria and was appointed as lecturer in subject of mathematics vide letter dated 18.11.1979.
4. In the year 1987 the college was granted permanent affiliation and in the year 1992 Bhagalpur University was bifurcated into Tilka Manjhi University and Sidho Kanhu Murmu University and in consequence of the same the S.R.T. College came under the jurisdiction of the latter. In the year 2008 the Hon'ble Chancellor was pleased to direct the Vice Chancellor to absorb the services of the petitioner. Pursuant to that the VC absorbed the services of the petitioner w.e.f. 30.06.1981 which was notified vide notification no. 152/2008. Thereafter in the year 2012 the State Government fixed the pay scale of lecturers including that of petitioner's father, however in the column 11 of the pay fixation statement it has been mentioned that the actual financial benefit to the petitioner will be admissible only w.e.f 29.02.2008.
5. Aggrieved by the said statement the petitioner represented the same to the respondent authorities but all in vain. Having no other option left the petitioner preferred the present writ application.
6. Learned Counsel for the petitioner submitted that the appointment of the petitioner was in accordance of law as per proviso 1(c) of the 1986 statute which was duly approved by the Chancellor. He further submitted that once the services of petitioner have been regularized as per the relevant statute for regularization as contained in statute dated 29.1.1986 there is no reason or ground for denying the difference of arrears of salary to the petitioner when he continuously discharged his duties on the post of lecturer

in the department of mathematics and the impugned order deserves to be quashed.

7. He had further submitted that during the pendency of the instant writ petition a supplementary counter affidavit has been filed wherein in annexure- D a corrigendum as contained in memo no. 488 dated 27.02.2019 has been issued by the Director, Higher Education by which the date of regularization has been changed from 28.02.1982 to 29.02.2008 overriding the letter of Chancellor which the Director has no authority to pass and prayed that the same may be quashed and set aside.
8. Learned Counsel for the respondents submitted that the benefit of increment has been given to the petitioner on the basis of his initial appointment, however the benefit has been given notionally till 28.02.2008 as prior to 29.02.2008 post was not sanctioned in the College. Due to the retirement of one teacher, one post became vacant w.e.f. 29.02.2008. He further submitted that the writ application deserves to be dismissed on the ground that the appointment of the petitioner was not in accordance with the law and that the post was not available as such the benefit could not be extended to the petitioner.
9. To buttress his argument, learned counsel for the respondents has relied upon a judgment passed by the Hon'ble Patna High Court on 02.03.2001 in LPA No. 909 of 2000 (*Dr. Shiv Narain Yadav & Ors. vs. The State of Bihar & Ors.*)¹.
10. Having heard learned counsel for the parties and after going through the documents available on record it appears that the main contention of the petitioner is that the respondents have granted only notional benefit in pay fixation till 28.02.2008 and have not paid the actual arrears of difference of salary from initial date till 31.03.2010.
11. In this regard it appears that the petitioner was appointed pursuant to advertisement issued by the governing body of S.R.T. College wherein he was found eligible and was appointed as a lecturer in the subject of mathematics vide letter dated 18.11.1979. It further appears that the services of the petitioner were absorbed by the order of Chancellor through Vice Chancellor w.e.f. 30.06.1981 vide notification contained in Memo No. 1593

¹ 2001 (2) PLJR 817

dated 23.10.2008 (Annexure-2 of the writ). On bare perusal of the aforementioned notification, it appears that at point 1 it has been stated that the grant of annual increment and benefit of inter-se seniority will be accorded to the absorbed lecturers according to the provisions contained in para 4 and 5 of the statute for regularization dated 29.1.1986. For ready reference para 1 of the notification contained in Memo No. 1593 dated 23.10.2008 is quoted herein below:

“उपरोक्त व्याख्याताओं को वार्षिक वेतन वृद्धि एवं वरीयता आदि का लाभ उपर्युक्त परिनियम के अनुच्छेद 4 एवं 5 के अनुसार देय होगा।”

12. Further paragraph-4 of aforesaid statute inter-alia clearly provides that the absorbed lecturers shall draw their first increment in the prescribed scale on completion of one year of service from the date of their appointment as such the Petitioner is legally entitled payment as to get his full pay-scale from the date of his initial appointment. For ready reference paragraph 4 and 5 of the statute is quoted herein below:

“4. Lecturers absorbed in the regular service under the above provision shall draw their first increment in the prescribed scale on the date of absorption or on 1st January, 1981 whichever is earlier and they shall draw the next increment after completion of one-year service from that date.

5. The seniority of lecturers absorbed in regular service under the above provision shall be determined from the dates of their absorption which shall be so fixed that their inter se seniority, as it existed before their absorption in the service of the University or the college, as the case may be remains unaffected.”

13. It further appears that the respondent authorities vide letter no. 593 dated 15.05.2012 fixed the pay scale of the lecturers and granted approval of the same as per the statement of fixation of pay-scale approved by the government. On perusal of the fixation statement of the pay-scale it appears that at serial 11 the name of the petitioner at Sl. No. 7 appears against mathematics subjects with date of joining as 06.08.1979, date of regularization as 28.02.1982 and pay fixation as per the 5th PRC on 01.01.1996 as Rs. 10,200/-. However, under column 11 it has been mentioned that the actual financial benefit will be admissible only with effect from 29.02.2008.

14. Supporting the said pay-fixation statement learned counsel for the respondent has contended that the benefit of increment has been given to the petitioner on the basis of his initial appointment, however the benefit has

been given notionally till 28.02.2008 as prior to 29.02.2008 the post was not sanctioned and the post has become vacant only after retirement of one teacher on 29.02.2008.

15. This argument is not acceptable to this Court since services of the petitioner was duly absorbed vide Notification dated 23.10.2008 (Annexure-2) issued under the authority of the Vice Chancellor by the Registrar, SKM University in view of direction given by the Chancellor for absorption of services of the petitioner with effect from 30.6.1981. However, since the cut-off date was fixed as 28.2.1982, the same was deemed to be the date of absorption of the services of the petitioner by the State Government as per Annexure-3. As such, it is not open to the State Government to take contrary view in the matter of payment of difference of arrears of salary to the petitioner when the petitioner has been continuously and without any break satisfactorily imparting his teaching job.
16. Learned counsel for the respondents has further contended that the very initial appointment of the petitioner was against the provision of Section 57, 57-A of Bihar State University Act, 1976 (now Jharkhand State University Act, 2000) and the provisions of section 9 and 10 of the Bihar College Service Commission Act, 1976.
17. This contention of learned counsel has no legs to stand since the appointment of the petitioner was done under proviso 1(c) of the statute for regularization of the service of purely temporary lecturers appointed on or before 28th February 1982 which was duly approved by the chancellor vide letter no. BSU-25/85-283 GS (1) dated 29.01.1986. Further the proposal for creation of post in mathematics in the college in question was sent by the university to the Government vide letter no. 7125 dated 07.06.1981 and the subsequent reminder was also sent by the Registrar, Bhagalpur University to the Deputy Director, Higher Education, Government of Bihar vide letter dated 06.01.1984 (Annexure-7 of the rejoinder).
18. Therefore, this Court fails to understand as to how the respondent authorities on the one hand are giving notional benefits in the matter of pay fixation from the very initial date whereas on the other hand they are denying the actual difference of arrears of salary.

19. Further the reliance placed by the respondent authorities upon ***Dr. Shiv Narain Yadav v. State of Bihar*** (*Supra*) is not applicable in the instant case since in that case the petitioner was not selected by the commission and was appointed *dehors* the rule whereas in the instant case the petitioner was duly appointed by the governing body against a proposed post and his services were validly absorbed.
20. It further appears that during the pendency of instant writ application a supplementary counter affidavit has been filed by respondent no. 2 & 3 wherein a corrigendum contained in memo no. 488 dated 27.02.2019 issued by the Director, Higher Education, Jharkhand has been annexed as Annexure-D to the said supplementary counter affidavit by which the date of regularization of the petitioner has been changed from 28.02.1982 to 29.02.2008. The said corrigendum has no value in the eye of law since the same has been passed without providing an opportunity of hearing to the petitioner, and further the Director Higher Education is also not vested with the authority to override the letter of chancellor.
21. Even otherwise considering the argument of learned counsel for the respondents that the appointment of the petitioner was void and that the date of regularization of the petitioner is taken to be 29.02.2008 then also he would be entitled to all the benefits from the date of initial appointment although the same was not in accordance with the prescribed procedure since regularization of the service related back to the date of initial appointment. Reliance in this regard is placed upon judgement rendered by Hon'ble Apex Court in the case of ***S. Sumnyan v. Limi Niri***² wherein it has been held as follows:

“44. We may here also appropriately refer to another decision of this Court in G.P. Doval v. Govt. of U.P. [(1984) 4 SCC 329 : 1984 SCC (L&S) 767] wherein this Court held that regularisation of the services of a person, whose initial appointment although not in accordance with the prescribed procedure but later on approved by an authority having power and jurisdiction to do so would always relate back to the dates of their initial appointment. Para 13 is reproduced hereinbelow: (SCC p. 341)

“13. ... If the first appointment is made by not following the prescribed procedure but later on the appointee is approved making his appointment regular, it is obvious commonsense that in the absence of a contrary rule, the approval which means confirmation by the authority which had the authority, power and jurisdiction to make appointment or recommend for appointment, will relate back to the date on which first appointment is made and the entire service will have to be computed in reckoning the seniority according to the length of continuous officiation. That has not been done in this case.”

²(2010) 6 SCC 791

22. Having regard to the afore-discussion, the para no. 1 of the impugned order dated 15.05.2012 is hereby quashed and set aside and the respondents are directed to calculate and pay the difference in arrears of salary after 5th and 6th Pay Revision to the petitioner. Further, the order dated 27.02.2019, whereby the date of regularization has been changed also stands quashed.
23. Accordingly, the writ application stands allowed. Pending I.A(s), if any, also stand closed.

(Deepak Roshan, J.)

Date:18.04.2026
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