

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 5310 of 2018

.....
Kameshwar Singh aged about 60 years son of Late Shiv Janam Singh, resident of Bensagar, P.O. - Karakat, via Sanjhauli, P.S. – Karakat, Dist. - Rohtas (Bihar)

..... Petitioner (s)

Versus

1. The State of Jharkhand
2. The Secretary, Department of Higher, Technical Education and Skill Development, Govt. of Jharkhand having its office at Nepal House, P.O. & P.S. - Doranda, Dist. - Ranchi.
3. The Director, Higher Education, Department of Higher, Technical Education and Skill Development Govt. of Jharkhand having its office at Nepal House, P.O. & P.S. -Doranda, Dist. - Ranchi.
4. Ranchi University, Ranchi through its Vice Chancellor, having its office at P.O.- G.P.O, P.S.- Kotwali & Dist.-Ranchi, Jharkhand.
5. The Registrar, Ranchi University having its office at P.O.-G.P.O, P.S.- Kotwali & Dist.-Ranchi, Jharkhand.
6. The Nilamber Pitamber University through its Registrar, having its office at Medininagar, P.O. & P.S. - Medininagar, Dist. Palamau. **..... Respondent(s)**

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

.....
For the Petitioner(s) : Mr. Gaurav Abhishek, Advocate

For the Resp.-State : Mr. Shubham Gautam, AC to AAG-V

For Ranchi University: Mr. Anoop Kr. Mehta, Advocate

Mr. Amit Kr. Sinha, Advocate

Mr. Pravin Tirkey, Advocate

For Nilambar Pitambar

University : Dr. Ashok Kr. Singh, Adv

Mr. Sharon Toppo, Advocate

C.A.V. ON 03/11/2025

PRONOUNCED ON:19/01/2026

.....
Heard learned counsel for the parties.

2. The instant writ application has been preferred by the petitioner for the following reliefs;

1. *For issuance of an appropriate writ/writs, order/orders, direction/or a direction in the nature of mandamus commanding upon the respondents to confirm the absorption made by the Ranchi University after due diligence and verification of the records in the Department of Sociology and therefore to hold that non-acceptance by the State is not legal and valid.*

II. *To hold and declare that the claim of the petitioner in the light of order passed by the Hon'ble Apex Court of India in Civil Appeal No. 2703/17 read with the order passed in SLP No. 12591/2010, the claim of the petitioner can be adjudicated and if found genuine petitioner is entitled for confirmation of the absorption in the Department of Sociology and not in History.*

III. *To hold and declare that the absorption of the petitioner already declared by the University under section 4 (1) (14) under the Jharkhand Universities Act is genuine, legal and valid and be confirmed by the State Government.*

IV. *For issuance of an appropriate writ/order/direction directing the Respondents, particularly Respondent No.1 to forthwith grant approval to the revised pay-scale of the petitioner in 5th University Grant Commission (hereinafter referred as U.G.C.) revised pay-scale in the grade of Lecturer, being pay-scale of Rs.8000-13,500/- w.e.f. 01.01.1996 and 6th revised U.G.C. pay-scale with effect from 01.01.2006 i.e., date from which similarly situated persons to that of the petitioner have been given the benefit of 6th revised U.G.C. pay-scale*

V. *For issuance of further appropriate writ/order/direction, including writ of mandamus, directing and commanding upon Respondents No.4 Nilambar Pitambar University to pay arrears*

of salary to the petitioner according to revised U.G.C. pay-scale along with the interest @ 18% per annum.

VI. *For issuance of further appropriate writ/order/direction, including writ of declaration, declaring that dismissal of the claim of the petitioner vide order dated 08.05.2015 (Annexure-8) passed by Hon'ble Mr. Justice S.B. Sinha (Retd.) Commission, New Delhi shall not adversely affect the case of the petitioner in the matter of payment of 5th and 6th revised U.G.C. pay-scale, especially because services of the petitioner have already been absorbed and also especially in view of the fact that the Petitioner, till today, has been discharging his duties under the Respondent-University.*

VII. *For issuance of any other appropriate writ(s)/order(s)/direction(s) as Your Lordships may deem fit and proper in the facts and circumstances of the case.*

3. The brief facts of the case as per the pleadings are as follows:

(i) The petitioner was appointed as a Lecturer in the Department of Sociology in Shri Sadguru Jagit Singh Namdhari College, Garhwa, on 12.02.1987. Thereafter, the said College which was earlier affiliated to Ranchi University, was converted into a constituent college of Ranchi University w.e.f. 30.04.1988 pursuant to a Bihar Government decision.

(ii) Disputes arose regarding absorption of teachers

in converted constituent colleges, including those against sanctioned posts or posts recommended by the University to the State Government. Pursuant to the order passed by the Patna High Court in CWJC No. 4021 of 1995, the services of the petitioner were regularized/absorbed by the Ranchi University vide notification dated 06.10.1998.

(iii) Thereafter, the matter of absorption of teachers of newly converted constituent colleges was examined by Justice S.C. Aggarwal Commission. In Annexure-IVA of its report, the Commission identified teachers eligible for absorption and duly recommended the petitioner for absorption under the subject Sociology. Pursuant thereto, Ranchi University issued notification dated 29.11.2005 absorbing the services of the petitioner; however, such absorption was shown against a vacant post in the Department of History instead of the Department of Sociology.

(iv) Subsequently, once again one-man commission was appointed under Justice S.B. Sinha to re-examine such issues and he held that absorption of the petitioner in the Department of History instead of the Department of Sociology was illegal and rejected his

claim.

4. Aggrieved by the decision of Justice S.B. Sinha Commission, the petitioner filed I.A. No. 352 of 2016 in SLP (Civil) No. 12591 of 2010 before the Hon'ble Supreme Court. The Hon'ble Supreme Court, while disposing of the matter as Civil Appeal No. 2704 of 2017 vide judgment dated 22.11.2017, granted liberty to those whose cases were not accepted by the Commission to approach the concerned High Court for redressal of their grievances. In the aforesaid background, the petitioner has approached this Court by filing the present writ application.

5. It has been submitted by Ld. Counsel for the petitioner that the report of Justice S.C. Aggarwal Commission clearly records the name of the petitioner which finds place in Annexure-IIIA, being the list of teachers working on the date of conversion of SSJN College, Garhwa. He further submits that Annexure-IVA of the said report contains the list of teachers eligible for absorption and the name of the petitioner duly appears therein under the subject Sociology.

6. Ld. Counsel had further submitted that Justice S.B. Commission was constituted by the Hon'ble Supreme Court only in respect of those teaching and non-teaching staffs whose services were not absorbed, whereas in the present

case the services of the petitioner were already absorbed by the S.C. Aggarwal Commission report but erroneously in the Department of History instead of Department of Sociology.

7. It has been contended that the report of Justice S.C. Aggarwal Commission having been accepted by the Hon'ble Apex Court in the case of *State of Bihar vs. Bihar Rajya MSESKK Mahasangh*, (2005) 9 SCC 129, wherein it has been categorically held that in view of Section 4(1)(14) of the Bihar State Universities Act, 1976, the matter relating to absorption of employees of newly converted constituent colleges lies within the exclusive domain of the University concerned and that the State Government has no role to play in the matter.

It has lastly been submitted by Ld. Counsel that Justice S.B. Sinha Commission rejected the claim of the petitioner solely on the ground that his absorption had been shown in the Department of History instead of the Department of Sociology, holding such absorption to be illegal.

8. In opposition, Ld. Counsel for the respondents had submitted that in its report, Justice S.C. Agrawal Commission has clearly held that there is only one sanctioned post in the Department of Sociology in

S.S.J.S.N. College, Garhwa and that there was no recommendation made by the University upto the cutoff date, i.e., 31.03.1987 for creation of any additional post in the Department of Sociology.

9. He had further submitted that the claim filed by the petitioner before Justice S.B. Sinha Commission has also been rejected vide Annexure-8 (Refer page no. 94 to 97 of the instant Writ Petition). Justice S.B. Sinha Commission has rejected the claim of the petitioner on the ground that the University had not sent any recommendation for creation of an additional post in the Department of Sociology, which was pending consideration before the State Government before the cutoff date that is 31.03.1987.

10. Ld. Counsel for the respondents lastly submitted that since there is no post available in the Department of Sociology in the entire Nilamber Pitamber University, the University to which the petitioner's current college has been currently affiliated, it is not possible to absorb the petitioner against any sanctioned post at present.

11. Having heard learned counsel for the parties and after going through the documents available on record it appears that the main grievance of the petitioner is that Justice S.B. Sinha Commission has wrongly rejected the claim of the

petitioner.

12. Learned Counsel for the petitioner has heavily relied upon Annexure-2 annexed to the writ petition which provides a list of teachers eligible for absorption; however, Justice S.C. Agrawal commission in its report has categorically held that there was only one sanctioned post in the department of Sociology in the said college and that no recommendation was made by the University up to the cut-off date i.e. 31.03.1987 for creation of any additional post in the department of Sociology.

It further appears that when the petitioner applied before Justice S.B. Sinha Commission, the commission found that the petitioner submitted a letter of University dated 27.03.1987 recommending two more posts in Sociology in the claim petition before S.C. Agarwal Commission; however, on minute examination Justice S.B. Sinha Commission found that the letter was forged and fabricated and was intended to mislead the commission.

On this ground alone, the order rejecting the claim of petitioner can be sustained.

13. Learned Counsel for the petitioner has also contended that as per the provision contained under Section 4 (1) (14) of the Jharkhand State Universities Act, 2000, power of

regularization of an employee has been vested in the University only and State Government has no role to play. In this regard it is observed that; though by the provision of Jharkhand State Universities Act only university is vested with the power of regularization of an employee; however, the exercise of such power must be according to the procedure established by law and not to be used arbitrarily and illegally.

14. As stated hereinabove, the absorption of the petitioner was as a lecturer in the department of history as no sanctioned post were available in department of sociology. The conditional regularization of the petitioner by the University in the subject of history cannot be said to be legal and the same is out rightly illegal and arbitrary use of power; as such, order dated 08.05.2015 passed by Justice S.B. Sinha Commission (Annexure-8); wherein the claim of petitioner has been rejected and the conditional regularization of petitioner in subject of history has been held to be illegal, is correct in fact as well as in law and cannot be set aside.

15. Now coming on the issue to confirm the absorption of the service of the petitioner; as discussed above; the conditional regularization of petitioner by university was

itself illegal and confirming the absorption of service of petitioner will lead to perpetuating the illegality which will be against the principle that illegality should not be allowed to be perpetuated. In this regard, it would be profitable to refer para-4 of the judgment rendered in the case of **State of Karnataka v. Umadevi** reported in **(2006) 4 SCC 1**.

For brevity para-4 of the aforesaid judgment is quoted as under :-

“4.....Whether the wide powers under Article 226 of the Constitution are intended to be used for a purpose certain to defeat the concept of social justice and equal opportunity for all, subject to affirmative action in the matter of public employment as recognised by our Constitution, has to be seriously pondered over. It is time, that the courts desist from issuing orders preventing regular selection or recruitment at the instance of such persons and from issuing directions for continuance of those who have not secured regular appointments as per procedure established. The passing of orders for continuance tends to defeat the very constitutional scheme of public employment. It has to be emphasised that this is not the role envisaged for the High Courts in the scheme of things and their wide powers under Article 226 of the Constitution are not intended to be used for the purpose of perpetuating illegalities, irregularities or improprieties or for scuttling the whole scheme of public employment. Its role as the sentinel and as the guardian of equal rights protection should not be forgotten.”

16. Further, this court refrains from passing any order directing the respondent to make fixation of pay scale in the light of 5th and 6th Pay Revision Committee Report as once the conditional regularization of petitioner itself is held to be illegal; no such order of pay fixation can be passed.

From the above discussion and by following the law laid down by the Hon'ble Apex Court it can be concluded

that Justice S.B. Sinha Commission has rightly rejected the claim of petitioner. Accordingly, no relief can be granted to this petitioner and consequently, this writ petition stands dismissed. Pending I.A.s, if any, also stands closed.

(Deepak Roshan, J.)

Dated:19/01/2026
Amardeep/
A.F.R

Uploaded
21/01/2026