

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13493 of 2013

Dr. Surendra Pati Tiwari S/O Late Shiv Shambhu Tiwari Resident of Village-
Suraundha, P.S- Dumraon, Distt- Buxar, Presently Working as an Ad-Hoc
Lecturer, Department of Philosophy, D.K. College, Dumraon, Distt.- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Hon'ble Chancellor- Cum- Governor, State of Bihar.
3. The Principal Secretary (Higher Education, Human Resources Development Department), Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna.
5. The Vice- Chancellor, Veer Kunwar Singh University, Ara at Ara.
6. The Registrar, Veer Kunwar Singh University, Ara at Ara.
7. The Principal, D.K. College, Dumraon.
8. The Vice- Chancellor, Magadh University, Bodh Gaya.
9. The Registrar, Magadh University, Bodh Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Dr. Surendra Pati Tiwari (in person)
For the State	:	Mr. Prashant Pratap, GP-2
For the Magadh University	:	Mr. Sunil Kumar, Advocate
For the V.K.S.U.	:	Mr. Arabind Nath Pandey, Advocate
For the respondent no.7	:	Mr. Shashi Shekhar Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
C.A.V. JUDGMENT

Date : 02-04-2024

1. Heard the petitioner in person and learned counsel
for the respondents.

2. The petitioner has filed the instant application
praying for a direction to the respondents to pay agreed salary to
the petitioner from the date of his initial joining till May, 1990
in light of the direction given by the Hon'ble Chancellor vide



letter no. -155/OSD/GS(J) dated 21.12.1984 which was basic salary of a Lecturer of that relevant time and revised from time to time as well. Further prayer has been made for a direction to the respondents to pay salary of a Lecturer to the petitioner from 1.6.1990 till he worked as an adhoc Lecturer.

3. The case of the petitioner is that in light of the Chancellor's letter dated 21.12.1984, the petitioner was engaged by the Principal, D.K. College, Dumraon as an adhoc Lecturer in the department of Philosophy on 15.7.1985. He was terminated on 26.4.1988 and subsequently once again reinstated in service along with others on 11.3.1989. Pursuant to his reinstatement, the petitioner joined on 27.3.1989. His services was once again terminated on 2.8.1987 and he was again reinstated on 28.8.1997. It is submitted that pursuant to an order of this Court, on an enquiry made by the respondent-University, the college in question ie the D.K. College, Dumraon sent information about adhoc teachers working in the college which included the petitioner in the department of Philosophy. Subsequently the order dated 2.2.2020 of this Court in response to which the respondent-University had sought information from the college, was challenged before the Hon'ble Supreme Court in which the petitioner was also a party. The same was



disposed of on 18.5.2007 by the Hon'ble Supreme Court directing the respondents to fill the vacant posts taking into consideration the cases of all those teachers who have the requisite qualification upon relaxation of age, if permissible by law. It is stated that the petitioner filed a representation. A seven man committee was constituted to examine the qualification of the adhoc teachers and of the two posts created on the basis of workload, only one post was sanctioned in the department. Professor Ram Suchit Sinha was working on the same but on his retirement on 30.9.2000, it is the petitioner who is discharging the responsibility of the department which would be evident from the letter dated 17.2.2001 of the Principal of the College. It is the case of the petitioner that he was never paid in view of the directions of the Hon'ble Chancellor as contained in his letter dated 21.12.1984 which clearly directed for payment at the rate of Rs.700/ per month to the adhoc teachers.

4. It may be stated here that over a period of time, several supplementary affidavits were filed in the case on behalf of the petitioner according to which he was paid remuneration of Rs.250/ only from the date of joining to February, 1988 and thereafter Rs.400/ per month upto February, 1997.

5. Counter affidavits were filed on behalf of the State



of Bihar, Veer Kunwar Singh University as also the Principal, D.K. College, Dumraon.

6. The case of the respondent-Veer Kunwar Singh University is that the petitioner was never appointed as an adhoc teacher in the College by the University rather he was engaged by the concerned Principal of the College on a fixed remuneration which varied between Rs.2 per class upto Rs.700/ per month and the University has no responsibility in this regard. It is further stated that the Registrar, Veer Kunwar Singh University had written to all concerned colleges including the D.K. College, Dumraon asking him to submit a detailed report with respect to the petitioner and others and as per the report submitted by the Principal of the College, the petitioner is not working after February, 1997. In another counter-affidavit of the University, it is stated that the Syndicate of the University took a decision in the year 1996 to pay to such teachers Rs.35 per lecture and subject to a maximum of Rs.700/ per month and that such payment would be made from the internal resources of the College. It is stated that the petitioner has not taken any class after 16.1.2011, he does not come to the College nor is he working at present. The case of a similarly situated teacher who was engaged in the department of History in the same College



namely Dr. Rishi Muni Upadhyay was dismissed by this Court by judgment dated 21.8.2017 passed in CWJC no.144 of 2015.

7. A counter affidavit was filed on behalf of the State of Bihar stating therein that from the pleadings contained in paragraph no.5 of the writ application, it would be evident that the petitioner was appointed by the Principal of the concerned College on contractual basis and payment of the same was to be made as per class basis. Such appointment was without the consent of the University and cannot be treated as a valid appointment. In reference to the letter dated 21.12.1984 of the Governor's secretariat, it is submitted by learned counsel appearing for the State that the same clearly stipulates that the engagements were to be made by the Vice Chancellor against sanctioned vacant posts in the College under the University within the finances available so that there is no extra financial liability. The engagement in case of the petitioner was not done by the Vice Chancellor nor on a vacant sanctioned post. In any case, the payment of the amount is not the State's liability. So far as the orders in the case of Dr. Shashi Kant Tripathy and Shyam Narayan Ray are concerned, the same were with respect to the persons working against sanctioned post and is thus of no assistance to the petitioner.



8. The stand of the Principal, D.K. College, Dumraon is that the petitioner was never appointed against any vacant sanctioned post either by the College or by the University. It appears that on the desirability shown by the petitioner, he was allowed to work without sanction of law on a stop-gap arrangement and remuneration was paid to him as per instructions available in the College at the relevant point of time from the internal resources of the College which was to the tune of Rs.35 per lecture and a maximum of Rs.400/ or Rs.700/ per month.

9. Having heard learned counsel for the parties and having perused the material on record, though the prayer made in the instant writ application is for a direction to the respondents to pay agreed salary to the petitioner from the date of his initial joining till May, 1990 as also from 1.6.1990 till he worked as an adhoc Lecturer, this Court finds that the writ application together with the supplementary affidavits filed on behalf of the petitioner are lacking in material particulars. An order dated 6.3.2019 was passed in the instant case together with CWJC no.6280 of 2011 (Dr. Renu Mishra vs. The State of Bihar and Ors.) which was to the following effect:

*“6.3.2019 The petitioners of both the
aforesaid cases are directed to bring on record*



their appointment letter as also the proof of continuance in service from the date of appointment till date”

10. Subsequent thereto, a supplementary affidavit was filed on behalf of the petitioner herein on 23.4.2019 stating therein that the appointment/engagement of the petitioner had been made according to the letter dated 21.12.1984 issued by the Governor's Secretariat pursuant to which the Vice-Chancellor of the University authorized the Principal of the College to engage adhoc teachers in different department where there were shortage of teachers and the Principal of D.K. College, Dumraon had engaged/appointed the petitioner as an adhoc Lecturer in the department of Philosophy. It was further stated that no separate appointment letters were issued by the University or College to any of the adhoc teachers.

11. Based on a similar affidavit filed in the connected case, this Court was pleased to dismiss CWJC no.6280 of 2011 (Dr. Renu Mishra vs. The State of Bihar and Ors.) by order dated 2.5.2019. It further transpires from the records of the case that pursuant to an order dated 9.12.2011 passed in CWJC no.14092 of 2009, wherein a direction was given to the University to make individual survey of the case of



each of the petitioners therein and which included the petitioner of the instant writ application, the matter was enquired into and a report dated 31.10.2017 was submitted by the College before the University. On perusal of the said report, brought on record as Annexure-R/4 to the counter affidavit of the Principal of D.K. College, Dumraon, it would show that no class whatsoever had been conducted by the petitioner after 16.1.2011 and most of the time he has not even been seen in the college premises. The contents of this report has not been challenged by the petitioner.

12. Thus, from the facts stated hereinabove, taking into consideration that inspite of the specific direction of this Court, the petitioner has not been able to produce any letter of appointment or even engagement as an adhoc Lecturer in the College, neither any details having been given in the writ application nor any representation having been brought on record showing the classes engaged by the petitioner and the respective amounts which the petitioner received allegedly in violation of the direction of the Hon'ble Chancellor as contained in his letter dated 21.12.1984 as also the connected writ application filed by Dr. Renu Mishra having been dismissed by order dated 2.5.2019 passed in CWJC no.6280 of 2011, the Court is of the opinion that the petitioner has not been able to



make out any case for any direction nor any relief which may be granted by this Court. There is no merit in the instant case.

13. The writ application is dismissed.

(Partha Sarthy, J)

Saurabh/-

AFR/NAFR	
CAV DATE	19.1.2024
Uploading Date	2.4.2024
Transmission Date	

