

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17450 of 2015**

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Kuraisa Begum W/o- M.N.A. Anjum R/o Neemtella, Sakra Faridpur, P.O.-  
Dholi, P.S. - Sakra, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The B. R. A. Bihar University, Muzaffarpur through the Registrar of the University.
2. The Vice - Chancellor, The B.R.A. Bihar University, Muzaffarpur.
3. The Registrar, The B.R.A. Bihar University, Muzaffarpur.
4. The State of Bihar, through the Principal Secretary HRD, Department, Govt. of Bihar, Patna.

... .. Respondent/s

with

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**Civil Writ Jurisdiction Case No. 15014 of 2015**

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Kuraisa Begum W/o M.N.A. Anjum R/o Neemtella, Sakra Faridpur, P.O.-  
Dholi, P.S.- Sakra, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The B.R.A. Bihar University, Muzaffarpur through the Registrar of the University.
2. The Vice Chancellor, The B.R.A. Bihar University Muzaffarpur.
3. The Registrar, The B.R.A. Bihar University Muzaffarpur.
4. The State of Bihar, through the Principal Secretary HRD, Department Govt. of Bihar Patna.

... .. Respondent/s

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**Appearance :**

(In Civil Writ Jurisdiction Case No. 17450 of 2015)

For the Petitioner/s : Mr. Manoj Kumar Yadav

For the State : Mr. M. N. H. Khan, SC 1

Ms. Babita Kumari, AC to SC 1

For the University : Mr. Bindhyachal Rai

(In Civil Writ Jurisdiction Case No. 15014 of 2015)

For the Petitioner/s : Mr. Manoj Kumar Yadav

For the State : Ms. Anuradha Singh, SC 21

Ms. Nutan Kumari Sharma, AC to SC 21

For the University : Mr. Anil Singh

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**

ORAL ORDER

12 10-04-2024 1. The present petitioner is the wife of the original



petitioner, namely, Late M. N. A. Anjum.

2. The original petitioner filed CWJC No. 15014 of 2015 for setting aside the order, dated 17.06.2015, passed by Hon'ble Justice (Retd.) S. N. Jha Committee for University Teachers (herein after referred to as "the Committee"), in Case No. 69 of 2015 (BRA.BU).
3. The original petitioner claims seniority on the post of Lecturer from 26.08.1976. The Committee has reckoned the seniority of the petitioner, as per the Second Absorption Statute, with effect from 01.01.1981.
4. The petitioner had filed CWJC No. 17450 of 2015 for a direction to the respondent authorities to pay the monthly pension of the petitioner by reckoning his qualifying service with effect from the date of his initial appointment, i.e. 26.08.1976, and not from 01.01.1981, which has been reckoned by the Committee.
5. Learned Counsel for the petitioner submits that the original petitioner was appointed as a Lecturer in Urdu in Sakra College, Sakara, by the Convener of the College, vide memo no. 153-76, dated 25.08.1976, issued by the Principal of the College.
6. The services of the petitioner got the concurrence of the



University Service Commission, on the basis of latter no. 283, dated 24.05.1976, of the Governing Body. The original petitioner was promoted to the post of Reader on completion of ten years of continuous service with effect from 01.06.1988. The petitioner retired on 30.06.2005 and started getting his pensionary benefits, reckoning the date of his appointment to be 01.01.1981.

7. All of a sudden, the original petitioner got communication from the University, vide Memo No. B/1814, dated 02.07.2010, that the date of his absorption has been rectified, including the dates of his promotion on the posts of Reader as well as Professor, i.e. 28.02.1982, 01.06.1988 and 28.02.1992.
8. The petitioner challenged the order rectifying the date of his absorption, in CWJC No. 14381 of 2010 and the writ petition was referred to the Committee for adjudication.
9. The petitioner filed an application before the Committee, which after hearing, has rejected the claim of the original petitioner. However, the date of absorption of the petitioner has been reckoned with effect from 01.01.1981 instead of 28.02.1982.
10. Learned Counsel further argued that the Committee failed



to appreciate that the petitioner was appointed on the post of Lecturer from 26.08.1976 and his services ought to have been reckoned with effect from 26.08.1976, but by the impugned order, the date of absorption of the original petitioner has been reckoned as per the cut off date mentioned in the Second Absorption Statute, i.e. 01.01.1981.

11. On the other hand, learned Counsel for the University submits that while considering the case of the University Teachers, this Court had taken a view that if the initial appointment of a person is valid, he would be entitled to seniority from the date of his initial appointment notwithstanding the cut off date fixed in the Absorption Statutes. The appointment of the original petitioner was not held to be valid, as such, he cannot claim retrospective seniority on the post with effect from the date of his initial appointment, i.e. 26.08.1976. The original petitioner was absorbed under the Third Absorption Statute, with effect from 28.02.1982, but, in the light of the decision of the Committee, the date of absorption of the original petitioner was shifted to 01.01.1981, as per the Second Absorption Statute. The



petitioner is not entitled to get seniority with effect from 26.08.1976. The appointment of the petitioner was not made by the Governing Body and from perusal of Annexure 1, it would be evident that he was appointed by the Principal of the College. No advertisement in the newspaper was published for appointment and no Selection Committee was constituted, having experts therein, for appointment of the University Teachers. The concurrence of the University Service Commission was also accorded only for a period of three months. As such, there is no deficiency/defects in the impugned order.

12. I have heard learned Counsel for the parties concerned and have gone through the impugned order and other materials available on record.
13. The petitioner was appointed by the Principal of the Sakra College, Sakara, vide letter, dated 25.08.1976. Petitioner has failed to produce any materials to show that the post was duly advertised in any newspaper and the Selection Committee was constituted, having experts for appointment of the petitioner on the sanctioned post of Lecturer in Urdu. The Committee has come to the conclusion that both, on general principles relating to



recruitment on public posts, as also, as per the norms of the appointment laid down in the Second Absorption Statute, the appointment could be made only after advertisement, on the basis of interview and from a panel prepared by the Selection Committee after evaluation of the comparative merits of the candidates. Thus, the initial appointment of the petitioner cannot be said to be valid.

14. The Committee has also noted that without going into the question of validity of the initial appointment of the original petitioner, and even if the initial appointment was not valid, for the purpose of seniority, the original petitioner having been completed 24-months service, on 31.12.1980, he became eligible for absorption under the Second Absorption Statute and his seniority is to be reckoned from 01.01.1981. Where a temporary employee is absorbed under some policy etc. containing the cut off date clause, ordinarily his appointment/seniority is counted from that date. However, while considering the cases of the University Teachers, this Court has taken a view that if the initial appointment of the teacher is valid, he/she would be entitled to seniority from the date of initial appointment notwithstanding the cut off date fixed



in the Absorption Statute.

15. The petitioner has failed to produce any material to show that the initial appointment of the original petitioner was valid inasmuch as he was appointed after advertisement and by a duly constituted Selection Committee.

16. Considering the aforesaid, I do not find any infirmity in the impugned order dated 17.06.2015, passed by Committee in Case No. 69 of 2015 (BRA.BU).

17. These writ applications are accordingly dismissed.

**(Anil Kumar Sinha, J.)**

Prabhakar Anand/-

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