

(2006) 10 JH CK 0013

Jharkhand High Court

Case No: None

Dr. Md. Kalimuddin

APPELLANT

Vs

Birsa Agricultural University and
Others

RESPONDENT

Date of Decision: Oct. 31, 2006

Citation: (2007) 3 JCR 101

Hon'ble Judges: Amareshwar Sahay, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Amareshwar Sahay, J.

In the present writ application the petitioner has prayed for quashing of the letter dated 09/06/1999 (Annexure-12) and the letter dated 12/11/1999 (Annexure-14), both issued by the orders of the Vice Chancellor, Birsa Agricultural University, Ranchi declaring Dr. Rajendra Yadav respondent No. 5 as senior to the petitioner Dr. Md. Kalimudduin and also rejecting the representation filed by the petitioner against the said declaration of the seniority. Further prayer of the petitioner is for direction to the respondents to restore the seniority of the petitioner over Dr. R. Yadav respondent No. 5.

2. The case of the petitioner is that Ranchi Veterinary College is an affiliated college of Birsa Agricultural University and Birsa Agricultural University has two others constituent colleges namely Ranchi Agriculture College, Ranchi and Forestry College, Ranchi. The petitioner was appointed as Associate Professor-cum-Senior Scientist at Ranchi Veterinary College vide Annexure-3 dated 20/08/ 1982.

3 Vide Annexure-1, an advertisement being notification No. 5/81 was issued on 01/11/1981 inviting applications for appointment to the posts of Associate Professor and Assistant Professor for various departments in the University and one of such post advertised was of Assistant Professor in the faculty of Veterinary Science and

Animal Husbandry. The petitioner applied for the post of Assistant Professor in the Veterinary Public Health and Epidemiology in the faculty of Veterinary Science and Animal Husbandry in Birsa Agricultural University pursuant to the said advertisement and he was invited for interview vide Annexure-2. The petitioner appeared in the interview for the said post alongwith six other persons including that of Respondent No. 5 Dr. Rajendra Yadav, who were also called for the said interview for the said posts of Assistant Professor-cum-Junior Scientist. According to the petitioner, he was selected for the post of Junior Scientist-cum-Assistant Professor, Department of Public Health and Epidemiology in the faculty of Veterinary Science and Animal Husbandry. The other candidate selected was Dr. Ashok Dayal, who was placed at Sl. No. 2 whereas the petitioner was at Sl. No. 1 vide Annexure-3 but Dr. A. Dayal did not join the post and, as such, one post remained vacant. Further case of the petitioner is that subsequently vide notification dated 20/04/1983, the respondent No. 5 Dr. Rajendra Yadav was appointed as Junior Scientist-cum-Assistant Professor on the post, which was vacant due to non-joining of Dr. A. Dayal vide Annexure-4 and the Respondent No. 5 joined as such on 29/06/1983.

4. The grievance of the petitioner is that though the respondent No. 5, who also appeared for the said interview alongwith the petitioner and his name did not find place in the list of selected candidates whereas the name of the petitioner was at Sl. No. 1 but the respondent No. 5 Dr. Rajendra Yadav, who joined the said post which was vacant due to non-joining of Dr. A. Dayal, after about 10 months of the petitioner, has wrongly and illegally been declared senior to the petitioner by the respondent University. According to the petitioner, in the case of respondent No. 5 Dr. Rajendra Yadav, while computing 8 years of continuous service requirement, the University ignored the criteria fixed by the U.G.C. and allowed him undue advantage in the shake of break in service in his placement in Senior scale and further promotion as Associate Professor. Dr. yadav had rendered serviced at Jawahar Lal Nehru Krishi Vishwa Vidyalaya (JNKVV) Mhow as Assistant Professor, Micrology w.e.f. 23/08/1976 to 25/06/1983 and he left the service of JNKVV by resigning at his own will and he joined Birsa Agricultural University on 29/06/1983 as Assistant Professor and, therefore, the period from 26/06/1983 to 28/06/ 1983 (3 days) he was not in service in either of the institutions, which amounted to break in his continuous service. This fact was ignored by the University at the time of counting the continuous service of the respondent No. 5.

5. The respondent No. 5 as well as the respondent University have filed their separate counter affidavits. According to respondent No. 5 he was appointed vide annexure-4 dated 20/04/1983 as Junior Scientist-cum-Assistant Professor in the Department of Veterinary Public Health and Epidemiology in Birsa Agricultural University, Ranchi after receiving the said appointment letter as contained in Annexure-4. he vide his letter dated 28/04/1983 requested the Vice Chancellor to extend the time of his joining and he also requested that his pay should be

protected as he was getting Rs. 940/- in the scale of 700-1600/- in J.N.K.V.V., Jabalpur. The University vide its letter dated 13/05/1983 extended the time of his joining and also ordered that his pay will be fixed in the scale of Rs. 700-1600 on his joining the University and thereafter, the respondent No. 5 joined the University on 29/06/1983. After his joining, he requested the Vice Chancellor to protect his basic pay and date of increment vide his letter dated 05/08/1983. Thereafter, the University sent a letter to the Registrar of J.N.K.V.V., Jabalpur asking for original last pay certificate of the said respondent No. 5. Pursuant thereto the J.N.K.V.V. sent last pay certificate and thereby the University fixed the pay of Respondent No. 5 at Rs. 940 on 29/06/1983 in the scale of 700-1600/- and fixed the date of his increment as 26/09/1983. Thereafter, this respondent was promoted to the post of Assistant Professor-cum-Junior Scientist in the scale of Rs. 3000-5000/- vide order dated 16/04/1983 and subsequently, under the career advancement scheme he was promoted to the scale of 3700-5700/- w.e.f. 20/10/1993. According to Respondent No. 5 he got the scale of Rs. 3000-5000/- on 16/04/1987 whereas the writ petitioner was allowed the said scale on 22/09/ 1990, i.e. after about more than three years. The respondent No. 5 was given the scale of Rs. 3700-5700/- from 20/10/1993 whereas the petitioner was allowed the said scale from 22/09/ 1995. The respondent No. 5 was initially appointed on 23/08/1976 and his past service rendered in JNKVV, Jabalpur was counted before joining this University and, therefore, he was senior to the petitioner by about six years as the petitioner was admittedly, appointed on 20/08/1982.

6. According to the respondent University, though the respondent No. 5 Dr. Rajendra Yadav joined on 29/06/1983, i.e. subsequent to the petitioner but since his past service period rendered in J.N.K.V.V., Jabalpur was counted and he was allowed pay protection and, therefore, he became senior to the petitioner. It is further stated by the University that the petitioner was promoted to the selection Grade w.e.f. 1995 under the career advancement scheme as recommended by the UGC and the respondent No. 5 was promoted to the selection grade under the said scheme w.e.f. 20/10/1993 counting his service rendered in J.N.K.V.V., Jabalpur.

7. After having heard the parties, considering the rival contention raised on their behalf, am of the view that since the services of respondent No. 5 Dr. Rajendra, Yadav, rendered in J.N.K.V.V., Jabalpur, was counted by the Birsa Agricultural University and he was also given the pay protection and, therefore, the Birsa Agricultural University rightly declared him to be senior to the writ petitioner and, therefore, his representation was rightly rejected. There is no dispute of the fact that respondent No. 5 joined the service in the year 1976 though at J.N.K.V.V., Jabalpur but this writ petitioner joined the service in the year 1982 and since the respondent No. 5 was given the benefit of continuous service counting his service rendered in J.N.K.V.V., Jabalpur and, therefore, there cannot be any doubt that the respondent No. 5 is senior to this writ petitioner.

8. In view of the discussions and findings above, I hold that the petitioner has not been able to make out a case for any interference by this Court. Accordingly having found no merit, this writ application is dismissed.

In the facts and circumstances of the case there shall be no order as to costs.