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IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3804 of 2015

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Md. Idris Alam, son of Mir Kurwat Ali, resident of Village-Bulwa Bair Gachi, P.O.Dugpracai, Via - Durga Ganj , District- Katihar

.... Petitioner/s

Versus

1. The State of Bihar, through Secretary, Human Resources Department , Bihar, Patna.
2. Vice-Chancellor, B.N. Mandal University, Laloo Nagar, Madhepura .
3. Finance Controller, B.N. Mandal University, Laloo Nagar, Madhepura.
4. Registrar , B.N. Mandal University , Laloo Nagar, Madhepura

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Murli Dhar, Adv
For the Respondent/s : Mr. Harish Kumar- GP32

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

4 24-04-2015 Heard learned counsel for the parties as with regard to following reliefs, prayed in this writ application:-

> *"To direct to respondent to make payment of Earn leave Gratuity and Arrear of pay of the petitioner.*
>
> *To direct the respondents to make payment of diference of pay from 01.01.1996 to 31.12.2005.*
>
> *To direct the respondents to make payment of difference of pay from 01.01.2006 to 30.04.2010on the basis of 6th U.G.C., Pay scale.*
>
> *To direct the respondents to pay the statutory interest along with the above mentioned amount from the date of payment."*

Pursuant to the earlier order passed by this Court on 23.03.2015 and 16.04.2015, a counter affidavit has

been filed wherein, it has been stated that the petitioner has been paid all other admissible amount except the enhanced amount of gratuity and the amount of leave encashment. In this regard, reliance has been placed on paragraph nos. 4 and 6 of the counter affidavit which for the sake of clarity and convenience is quoted hereinbelow:-

> *"That it is stated that on receipt of proposal for fixation of pension etc. payment of monthly pension to the Petitoenr was started and he was paid Rs. 76,476/- through Cheque No. 686496 dated 13.11.2010 for period from May 2010 to August 2010. Thereafter payment of monthly pension continued as in such other cases. He has already been paid entire arrear of pension in the scale revised with effect from 01.01.2006/01.04.2007 and such 3rd /the last installment for Rs. 2,84,578/-(Rs. Two Lacs Eighty Four Thousand Five Hundred and Seventy Eight only) through Cheque No. 626424 dated 18.01.2015 in favour of the Petitioner vide Letter No. A/c P-875/2015 dated 18.04.2015. His G.P.F. Bank Account was also prepared for payments vide University Letter No. A/c P-1618/11 dated 07.01.2011. He was paid B.N.M.U. Share G.I.C with interest amounting to Rs. 42,224/- through cheque No. 688365 dated 08.12.2010.*
>
> *That with regard to the claim of the Petitioner made in paragraph no. 2(ii) regarding payment of arrear salary from 01.01.1996 to 31.12.2005 photocopies of such claims enclosed as Annexure-6 with the writ petition has not found calculated property. Such residual claim of the Petitioner was calculated afresh and by adjusting the amount already paid under such claim Rs. 3,38,632/- (Rs. Three Lacs Thirty Eight Thousand Sic Hundred Thirty Two only) has been found payable, which has been sanctioned and released through consolidated cheque no. 822949 dated 18.04.2015 to the Principal, M.L. Arya College, Kasba vide Letter No. A./c-1160/15 dated 18.04.2015 for*

payment to the petitioner."

Learned counsel for the petitioner, however, makes a complaint that the respondents have not paid enhanced amount of gratuity as also the amount of leave encashment.

Mr. Raju Giri learned counsel for the B.N. Mandal University in respect of aforesaid two payments has explained that the University being solely dependent on the State Government for making payment of post retrial benefits of the employees of the University, it could not have paid such enhanced amount of gratuity and leave encashment, due to paucity of fund. In this regard he has invited attention of this Court towards the letter of the University dated 20.12.2014 as contained in Annexure-B, wherein, the State Government has been requested by the University to release fund to the tune of Rs. 53,65,51,410/- in order to enable the University to make payment of the dues of revised amount of gratuity and leave encashment to total number of 399 employees

of the University.

Considering the aspect that the upper limit of the amount of gratuity has been enhanced from 3.5 lacs to 10 lacs, this Court keeping in view that the University had received funds earlier for the payment of unrevised amount of gratuity and leave encashment would direct that the University must pay at least the earlier maximum amount of Rs. 3.5 lacs on the head of gratuity as also entire amount of leave encashment to the petitioner, who has retired on 30.04.2010 within a period of one month from date of receipt of a copy of this order. The remaining balance amount of gratuity payable to the petitioner in view of the enhancement of limit of gratuity shall be paid to him along with others upon release of fund by the State Government.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

Ranjan/-

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