

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4320 of 2010

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Prof. Tribhuwan Singh S/O Late Sri Kailash Singh R/O At- Marwari Mohallah, Gopalganj, P.O. & P.S. & Distt.- Gopalganj, Retired Reader, Gopalganj College, Gopalganj (now known as Kamla Rai College, Gopalganj)

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Human Resources Development Deptt. Govt. Of Bihar, New Secretariat, Patna
2. Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur, Through Its Registrar
3. The Vice Chancellor Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur
4. The Registrar, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur
5. Jai Prakash University, Chapra through Its Registrar
6. The Vice Chancellor Jai Prakash University, Chapra
7. The Registrar Jai Prakash University, Chapra

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mahesh Narayan Parbat, Sr. Advocate.
For the State	:	Mr. Hans Raj, Advocate.
		Ms. Nutan Sharma, Advocate.
For the B.R.A.	:	Mr. Santosh Kumar Jha, Advocate.
For the J.P. University	:	Mr. Anjani Kumar, Sr. Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

11 11-05-2015

Heard learned counsel for the parties.

2. When this writ application was filed initially on 11.03.2010, the petitioner had a lot of grievance, as would be more clear from reading of para-1 of the writ application, which reads as follows:

"1.(a) To issue a writ of mandamus commanding the respondents to discharge their legal obligation to follow the judgment and order of this honourable court dated 15.9.2006 in its words and spirit, passed in M.J.C. no. 153 of 2006 and analogous cases [reported in 2006(4) PLJR page 369] and to extend the benefits of the said judgment in case of

petitioner also and pay the amount of his group insurance along with 12.5 percent compound interest and amount of deferred D.A. with compound interest at the rate of 9% per annum with effect from the date such difference was to be deposited until 17 December 1986 and there upon at Nationalised Bank Saving Account interest rates varying from time to time from 18 December 1986 until payment, as decided by honourable court, after deducting the amount of group insurance and deferred dearness allowance, which have been paid to him without interest or with simple interest on the said amounts, along with their respective calculation charts.

(b) To issue a further writ of mandamus, commanding the respondents, specially the respondent no. 2 to 4 to pay arrears of difference of salary, H.R.A., D.A., medical allowance etc. ie. Arrears of difference of salary for the period 1.1.1986 to 31.12.1989, deferred D.A. for the period 1.3.1984 to 31.12.1985, interim relief for the period 1.6.1983 to 31.01.1986, H.R.A. for the period 1.12.1986 to 31.12.89 and 1.8.1991 to 31.10.1992, D.A. difference for the period 1.1.1990 to 31.10.1992, Medical Allowance, etc. of the petitioner, as per claim sent by the college concerned, after deducting ad-hoc payments, if any, which has been made towards payment of the said arrears to the petitioner.

(c) To issue further writ of mandamus, commanding the respondents specially respondent no. 5 to 7 to pay the arrears of difference of salary, D.A., Interim relief etc. for the period 1.4.1997 to 30.06.2008, as per claim sent by the college concerned as are admissible in law, after deducting the ad-hoc payments, if any, made in these regard.

(d) To issue further writ of mandamus, commanding the respondents to pay statutory interest on delayed payment of the aforesaid amounts from the date the amounts have become due till the date of their respective payments.

(e) To issue further writ of mandamus, commanding the respondents to commute the pension of the petitioner in terms of provision as incorporated in the statutes of Bihar University Act.

(f) To issue further writ of mandamus, commanding the respondents to pay the entire pensionary benefits and other dues of the petitioner above said alongwith interest at the rate of 18% per annum since the date the amounts have become due, till the date of their payments."

3. During pendency of the writ application, the grievance of the petitioner have got confined to only three issues so far it relates to payment of retirement benefits.

4. Firstly, it is with regard to the enhanced amount of Gratuity on account of raising of maximum ceiling limit from Rs. 3.5 lacs to Rs. 10 lacs.

5. Mr. Anjani Kumar, learned senior counsel appearing on behalf of the J.P.University (hereinafter referred to as 'the University'), has explained that such cases of the retired employees of the University, who were earlier not being eligible for such enhanced limit having been decided by this Court, the petitioner also is one of them who had retired in the interregnum period in between 01.04.2007 to 23.09.2009. He has also submitted that for such retired employees including the petitioner, a request has been made by the University from the State Government for release of additional fund so that enhanced amount of Gratuity can be paid. In this regard, he refers to paragraph-5 of the supplementary counter affidavit, which reads as follows:



"5. That with regard to the averment made in paragraph no. 7 of the reply filed on behalf of the petitioner it is to say that as per Government resolution No. 1116 dated 26.08.2014 the Director of Higher Education, Bihar, Patna has demanded the claim in prescribed format to the University to release the fund by the State Government for payment of enhanced gratuity to those retired teaching and non-teaching staff between 01.04.2007 to 23.09.2009 vide its letter no. 15/G 01-03/2014-16 dated 05.01.2015. And thereafter the University has prepared the claim including the petitioner and sent to the Government vide its letter no. 6145® dated 20.01.2015. But till date the fund has not been released by the State Government. If the Government will release the said fund, the University will pay the enhanced gratuity of the petitioner as soon as possible."

6. It, thus, becomes clear that this additional amount of Gratuity, on account of enhancement of the ceiling limit, is no longer in controversy and its payment is to be made by the University, but then the University, having no resources on its own, has to squarely depend on the funds being released by the State Government.

7. In that view of the matter, this Court would direct the Director, Higher Education to ensure that the funds for the enhanced amount of Gratuity, as requested by the University in its letter dated 20.01.2015, after due verification and proper accounting, must be released within a period of three months from today so that not only the petitioner but any other person alike the petitioner who had retired in between 01.04.2007 to 23.09.2009

and has not been paid the amount of enhanced Gratuity, must be paid within next one month of the receipt of the fund by the University of course by maintaining a priority list for the purpose of making such payment strictly on the basis of date of retirement.

8. The second grievance of the petitioner is with regard to non-payment of leave encashment, which would become payable to him on account of enhanced salary. This aspect of the matter however has not at all been answered even in the supplementary counter affidavit filed today.

9. This Court, however, would find that once the payment of amount of leave encashment has been already made to the petitioner and that such salary of the petitioner was enhanced after making payment of such leave encashment, the petitioner would also be entitled for payment of enhanced amount of leave encashment that would become payable to him due to such increase in the amount of monthly salary. Let it be noted that the payment of leave encashment has to be made on the basis of last salary payable and, therefore, this Court would direct the Registrar of the University, present in the court, to ensure that the payment of enhanced amount of leave encashment be also paid to the petitioner within a period of three months.

10. The last grievance of the petitioner, as with regard



to his payment of retirement benefit, is in respect of reduced amount of interest on the head of Group Insurance. It has been claimed by the petitioner that he has not been paid 12.5% of the interest on the amount of Group Insurance. Though this aspect of the matter has also not been answered in the supplementary counter affidavit, Mr. Anjani Kumar, having obtained instruction from the Registrar of the University, has submitted that the University, as per the past practice, has been paying 10% of the interest on the amount of Group Insurance but then having regard to the law laid down by this Court in the case of ***Prof. Surendra Bahadur vs. State of Bihar & Ors.*** reported in ***2006(4) PLJR 369***, the J.P. University, being successor in seat of the University, will be also liable to pay 12.5% interest per annum.

11. As noted above, the petitioner has also been paid his interest on the amount of Group Insurance @ 10% per annum and its only difference of two and half per cent, which is the remaining grievance of the petitioner. In that view of the matter, this Court would again direct the Registrar of the University to ensure that the remaining amount of interest on the amount of Group Insurance be also paid to the petitioner i.e. the balance two and half per cent interest, within the same period of three months.

12. Though in this writ application, the petitioner had

also raised the issue of some anomaly in fixation and refund of pay of the petitioner, which have also been answered in the counter affidavit, according to which, most of the grievance seems to have been redressed but then keeping in view that this writ application has been filed under the heading 'retirement benefit', this Court is not inclined to decide anything in this regard. If the petitioner has any further grievance with regard to payment of difference of salary or even recovery that may be raised by the petitioner before the competent authority/court as is permissible in law.

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

14. The personal appearance of Mr. Achyuta Nand Singh, Registrar of the J.P. University is hereby dispensed with.

(Mihir Kumar Jha, J)

Sujit/-

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