

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9181 of 2010

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Dr. Shiva Narayan Chowdhary, S/O Late Satya Narayan Chowdhary, R/O
Village Pokharam, P.S. Biroul, District Darbhanga.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Human Resources Development
Department, Govt. Of Bihar, Patna.
3. The Vice-Chancellor, L.N.M.U., Kameshwar Nagar, Darbhanga.
4. The Registrar, L.N.M.U., Kameshwar Nagar, Darbhanga.
5. The Principal, J. K. College, Biroul, District Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Chandra Jha, Advocate.

For the Respondent/s : Mr. A.B.Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

15 05-05-2015

Heard learned counsel for the parties.

2. When this writ application was filed some five years back on 20.05.2010, the grievance of the petitioner was that he had not been paid any amount of retirement benefit as also revised amount of salary, During pendency of the writ application, the respondent University has made payment to the petitioner, as would be evident from para- 4 of the counter affidavit which reads as follows:-

"4. That it is humbly stated that the petitioner has already been paid Rs. 74388.00 in the head of pension and Rs. 55020.00 in the head of gratuity on 04.10.2002. He is being paid regularly the pension along with admissible D. relief w.e.f. October, 2002."

3. Subsequently, another counter affidavit has been



filed by the University on 23.03.2015, in which it has been stated that the salary arrear, dues for the period 01.01.1986 to 03.06.2001, had already been calculated and it was found that a sum of Rs. 3,66,760/- was payable to the petitioner on that head. The respondents have also, in para 7 of the counter affidavit, explained that the petitioner's pension was also revised on the basis of his last pay of Rs. 14,940/- and a sum of Rs. 5,74,754/- was paid to the petitioner by way of arrears of pension for the period 01.07.2001 to 31.05.2011.

4. Similarly, the respondents have taken a stand that the petitioner's entire payment of gratuity has already been made. As with regard to the Leave Encashment, the respondents in their supplementary counter affidavit have explained that there were only 119 days of earned leave found to the credit of the petitioner and for that the encashment was also made by way of payment of Rs. 97,495/-. The University has also explained that for the arrears dues on revision of pay scale for the period 1.4.2007 to 31.7.2012, the petitioner was found to be entitled for payment of Rs. 6,90,881/- out of which a sum of Rs. 3,52,263/- which is being 40% of the amount has already been paid and the rest of the amount of Rs. 3,38,618/- was to be paid when the funds for the same would be received by the university.

5. Finally, it has also been explained that the petitioner, since 01.08.2012, has been getting his pension in the revised pay scale fixed at Rs. 21,091/- as basic pension as well as dearness allowance admissible on the aforementioned amount. There seems to be some short of mistake in calculation of the payment of revised pension of the petitioner inasmuch as the University has explained that the petitioner's pension should have been fixed at Rs. 20,740/- as basic pension in place of Rs. 21,091/- basic pension.

6. Having set out all these issues, the University has, in para-10 of the supplementary counter affidavit, taken following stand:

"10. That at last, it is stated by the deponent that the entire claims of the petitioner were examined by the University and thereafter the same was placed before the state Finance Auditors who has recommended for payment to the petitioner. It is stated by the deponent that the recommended amount by the State Finance Auditors will be paid to the petitioner at the earliest, say within a month from today. The remaining dues which is due to the petitioner as per the recommendation is mentioned hereunder:

- i) Salar arrear of Rs. 3,66,760/-*
- ii) Pension @ 20,7410/- from month of Feb.2015*
- iii) E.L. Encashment for Rs. 97,495/-.*
- iv) G.I.(Difference of 4.5% and 12.5% interest) Rs. 24,704/-.*
- v) P.F. release order is being issued alongwith the pass book of P.F. Account.*

11. That in view of the statements made above, it is apparent

that the grievance of the petitioner has now been considered by the respondents and the same will be paid to him as per the statements made above."

7. Today, Mr. A.B.Sinha, learned counsel for the University, has submitted that even the payment of amount, as stated in para-10 of the supplementary counter affidavit, as quoted above, shall be made within a period of one month from the date of receipt of a copy of this order.

8. That being so, this writ application is disposed of with a direction to the University to ensure that the undertaking given by the learned counsel in payment of the remaining amount, as explained in the aforesaid para-10 of the supplementary counter affidavit, is paid positively within a period of one month from the date of receipt of a copy of this order.

(Mihir Kumar Jha, J)

Sujit/-

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