

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8943 of 2010

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Smt. Lata Prasad W/O Late Dr. Sarblal Yadav R/O Mohanpur, Punaichak,
P.S.- Shashtri Nagar, Distt.- Patna

.... Petitioner/s

Versus

1. The State Of Bihar, Through The Principal Secretary, Higher Education Human Resources Development Department Having His Office In Vikash Bhawan, P.S.- Shashtri Nagar, Distt.- Patna Null Null
2. The Vice-Chancellor, Magadh University, Bodh Gaya, Distt.- Gaya
3. The Registrar, Magadh University, Bodh Gaya, Distt.- Gaya
4. The Finance Officer, Magadh University, Bodh Gaya, Distt.- Gaya
5. The Principal, B.D.Evening College, Mithapur, Distt.- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vikas Mohan, Advocate.

For the Respondent/s : Mr. (Gp8)

Mr. Yugal Kishore, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

7 05-05-2015

Heard learned counsel for the parties.

2. Having regard to the nature of prayer made in this

writ application, relevant portion whereof reads as follows:

"1. for issuance of writ in the nature of certiorari quashing the letter dated 24.03.2010 issued by the Finance Officer, Magadh University addressed to the Principal B.D. Evening College, Patna by which order has been given to recover the excess amount of Rs. 2,00,489/- without giving her any notice and without giving her adequate opportunity which is illegal, arbitrary and violative of principle of natural justice."

this Court would find it difficult to go into the questions as to whether the petitioner has been rightly paid revised amount of family pension or the other retirement benefit of her deceased husband. The issue relating to payment of salary by way of revised salary has already been answered by the respondents by filing a

supplementary counter affidavit wherein it has been stated that a sum of Rs. 4,32,690/- has already been paid to the petitioner for which funds have been released to the B.D. Evening College, Patna, where the husband of the petitioner was working.

3. Learned counsel for the petitioner, however, has submitted that a sum of Rs. 2 lacs was still payable on the head of the arrear of salary and that was wrongly recovered despite an interim order passed by this Court on 19.05.2010.

4. The issue as to whether the husband of the petitioner was liable to refund the amount was gone into in the light of the pleadings and ultimately this Court had found that the husband of the petitioner was entitled for revision of his pay scale. By virtue of such order the respondents were directed to make calculation and also make payment. The respondents thereafter had made payment of Rs. 4,32,690/- which should be treated to be full and final payment on the head of enhancement of the salary. As a matter of fact, the petitioner cannot hold the university guilty for such calculation and payment of arrear of salary of her husband because this time arrears of salary has been arrived at and calculated by the Senior Auditor deputed by the State Government, who has found the amount of Rs. Rs. 4,32,690/- payable and, in fact, on the basis of the same, a cheque was also sent to the college of the husband of the petitioner.

5. The petitioner, in fact, in reply to the supplementary counter affidavit, does not deny the receipt of the aforementioned amount but now has come out with a case that a sum of Rs. 2,00,489/- has been deducted while making payment of Rs. 4,32,690/-. That however may not be the correct way of laying such claim inasmuch as whatever amount had been claimed by the petitioner that was to be verified and scrutinized by the university and its auditors. On such scrutiny, the husband of the petitioner was found entitled for payment of Rs. 4,32,690/-and, therefore, the impression being carried out by the petitioner that the calculation of amount made by the authorities of the college was sacrosanct and should not have been cross-examined and changed by the university is misconceived both on fact and in law.

6. In view of the above, whatever legitimate relief has been sought in this writ application stands already answered and given to the petitioner, therefore, this Court is not inclined to allow the petitioner to expand the scope of this writ application.

7. This writ application is, accordingly, disposed of.

8. Interlocutory application(s), if any, also stands disposed of.

(Mihir Kumar Jha, J)

Sujit/-

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