

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14221 of 2014

=====

1. Sita Kumari D/o Late Lal Narayan Singh, R/o Shankar Chowk, Dumra, Ward No. 3, Road No. 2, P.S. & District - Sitamarhi.

.... Petitioner/s

Versus

1. The T.M. Bhagalpur University, Bhagalpur, through its Registrar.
2. The Vice-Chancellor, T.M. Bhagalpur University, Bhagalpur.
3. The Registrar, T.M. Bhagalpur University, Bhagalpur.
4. The Finance Officer, T.M. Bhagalpur University, Bhagalpur.
5. The Principal, S.M. College, Bhagalpur.
6. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Patna.
7. The Director, Department of Higher Education, Govt. of Bihar, Patna.
8. State Govt. Auditor, Deployed in T.M. Bhagalpur University, Bhagalpur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Purushottam Kumar Jha
For the Respondent/s : Mr. Subhash Pd. Singh, GA 7
Mr Ashhar Mustafa

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 09-09-2015

The present petitioner was duly appointed by the University on the post of a Matron to look after the affairs of the girls hostel of what is known as Sunderwati Mahila Mahavidyalaya, which is a constituent unit of Tilkamanjhi Bhagalpur University, Bhagalpur. After her appointment, she started performing her duty honestly and religiously. However, a problem arose because salary was stopped and not paid by the college or the University in question. Writ application has been filed for a direction upon the respondent University and the State to pay her salary regularly, which is due since

December 2009.

The present writ application cannot be decided in isolation and there is a history behind the post of Matron as would be evident from reading of Annexure- 3, which is an adjudication made by this Court in CWJC No.7716 of 2012 and decided on 30.1.2014. The Court is not inclined to go into all the details of the said adjudication but one thing is established that the institution in question have large number of girl candidates, who are living in the hostel provided by the college in question, and the institution cannot run without a full time Matron at the command. There is enough materials dealt with in the above writ to establish existence of a sanctioned post of a Matron.

After the superannuation of Sushree Bharti Biswas, necessity of having a full time Matron was felt by the authorities and a conscious decision was taken and appointment made in terms of Annexure- 10, which is dated 25.2.2009 and duly approved by the University in terms of Annexure- 13, dated 5.3.2009.

Even in the previous writ application, the then incumbent Sushree Bharti Biswas, who spent her entire lifetime serving the institution was compelled to come to this Court for not only settlement of her claim relating to post retiral dues but other related benefits also. This is an unacceptable position because the State authorities or its limb or extension of its limbs cannot be foreseen to

be acting like a private organization, which has tendency to exploit its employees. The element of welfare State and the spirit behind it has to prevail.

The State Government can take a hyper technical view of the matter that there is no provision for a Matron or there is no sanctioned post of a Matron as per their records or stand. But that does not seem to be actually true, if one looks into the narration and the adjudication made in terms of Annexure-3. In fact, after the decision of this Bench in Sushree Bharti Biswas's case, the State authorities ought to have rectified the anomaly, which is coming in the way of payment of salary and emoluments to a full time Matron, who has been duly appointed by the University authorities. They cannot run the hostel of the institution without a lady being incharge whole time. The necessity of such appointment cannot be debated. Such compulsion, therefore, was the reason for the University authorities to take a decision in terms of Annexure- 10 and Annexure-13. The Court, therefore, will not permit the respondent authorities to hide behind one technicality or the other which ought to be resolved by taking a conscious decision in the peculiarity of the facts and the need in the institution since there has been a post of full time Matron and they have to make provision for release of funds for payment to the person holding that post. It is too late in the day now to continue

arguing that there has not been a sanctioned post of a Matron. Annexure- 3 indicates the position that it is more a case of omission on the part of the State authorities in reconciling that position and unnecessarily harassing a citizen to approach a Court every time for payment of salary or other emoluments and even for pension after superannuation. This is an unacceptable position and unfair stand to take on behalf of the respondents.

The writ application, therefore, is allowed. The respondent authorities are directed to ensure that the petitioner begets her salary along with the arrears regularly. The State authorities must make provision for payment of salary to the petitioner by making provisions and allotment so that the petitioner can perform her duty without litigating for what should accrue to her as a matter of course. Such exercise should be done within a period of three months from the date of production of a copy of this order.

(Ajay Kumar Tripathi, J)

sk

U			
---	--	--	--