

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18617 of 2008

Dr. Asha Rani, aged about 62 Years, Wife of Man Moha, Advocate, Resident of Kadamkuan, 'D' Block Gopal Bhawan, Police Station- Kadamkuan, District- Patna, retired as Reader in the Department of Economics, Jagat Narain Lal College, Khagaul, Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Higher Education, Government of Bihar, having his office in Vikash Bhawan, New Secretariat, Police Station- Sachivalaya, District- Patna.
2. The Vice-Chancellor, Magadh University, Bodh Gaya, District- Gaya.
3. The Registrar, Magadh University, Bodh Gaya, District- Gaya.
4. The Budget-cum-Accounts Officer, Magadh University, Bodh Gaya, District- Gaya.
5. The Finance Officer, Magadh University, Bodh Gaya, District- Gaya.
6. The Principal, Jagat Narain Lal College, Khagaul, a Constituent Unit of Magadh University having his Office at Khagaul, Police Station-Khagaul, District- Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 27-08-2015

Heard learned counsel for the parties.

In view of the supplementary counter affidavit filed on behalf of the University and the petitioner's reply, it appears that the petitioner has been paid her retiral dues on account of leave encashment, gratuity and difference amount of salary after revision. However, learned counsel for the petitioner has raised a dispute with regard to the figure relating to leave encashment and submits that as per his calculation, an amount of Rs. 10,000/- less has been paid. He also submits that pursuant to the University allowing him arrears of salary, though a higher amount



was remitted by the University to the Principal of the college for payment to the petitioner but while making payment a sum of Rs. 69,000/- and odd was deducted without assigning any reason due to which she had to move before the Court and finally by order dated 14.12.2011 in M.J.C. No. 303 of 2008, the Registrar of the University was directed to look into such grievance expeditiously. It is submitted that the matter is still pending at the level of the Registrar of the University without any decision being taken in this regard.

As far as 45% remaining amount relating to arrears of pension in the revised pay scale, the stand of the University in the supplementary counter affidavit is that though the amount has been received but a direction has been issued with regard to actual payment which has to be made only in cases where pay fixation has been verified by the Pay Verification Cell constituted by the State Government.

On the issue of payment of 45% of arrears of pension after verification by the Pay Verification Cell of the State Government, the Court is unable to appreciate such rider by the State Government as admittedly the petitioner having superannuated in the year 2008, after verification by the State Auditor deputed by the Government in the University, her emoluments were approved and then payment was made. There cannot be re-verification every time at the whim of the State Government. Thus, in the facts of the present case, the Court

holds that such re-verification by any Pay Verification Cell is not required since the Auditor sent by the State Government had already undertaken and completed the exercise in the past. The said decision of the Auditor was not challenged either by the University, the petitioner or even by the State Government itself and thus has to be accepted by the parties concerned.

Accordingly, the writ application stands disposed off with a direction to the University/respondents to pay the remaining 45% of the arrears of pension to the petitioner within four weeks from the date of production of a copy of this order upon respondents no. 3 and 5. With regard to the matter of deduction of Rs. 69,000/- and odd pending before the Registrar, a final decision be taken and if the amount has to be returned, the same be also done within the same period.

At this stage, learned counsel for the petitioner prays that because of there being no fault or lapse on the part of the petitioner, she may be granted interest on the delayed payment in terms of the order of the Hon'ble Supreme Court in the case of **D.D. Tewari v. Uttar Haryana Bijli Vitran Nigam Ltd.** reported in **(2014) 8 SCC 894**.

Undisputedly, there being no fault or lapse on the part of the petitioner in delayed payment, this Court finds substance in the submission of learned counsel for the petitioner seeking award of interest. Thus, the respondents are further directed to pay interest at the rate of 9% per annum on the

delayed payment relating to leave encashment and gratuity. The respondent University shall also ensure that the amount sent, to the college to be paid to the petitioner, is also paid to her within a further period of four weeks, failing which the same shall also carry interest at the rate of 9% per annum.

(Ahsanuddin Amanullah, J.)

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