

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 8728 of 2011

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Girja Nandan Singh, aged about 57 years, S/o Sri Shivdeni Singh Resident of Mohalla-Nadarganj, Khajanchi Gali, Gaya, P.S. & Distt. Gaya, presently working on the post of Laboratory Incharge, Deppt. of Psychology, B.D. College, Patna (A Constituent Unit of the Magadh University)

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary Department of Human Resources Govt. of Bihar, Patna
3. The Secretary Higher Education, Department of Human Resources, Govt. of Bihar, Patna
4. The Director Higher Education, Department of Human Resources, Govt. of Bihar, Patna
5. The Vice- Chancellor Magadh University, Bodh Gaya
6. The Registrar Magadh University, Bodh Gaya
7. The Finance Officer Magadh University, Bodh Gaya
8. The Principal B.D. College (A Constituent Unit of the Magadh University), Mithapur, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Sinha
Mr. Arvind Kr. Sharma

For the Respondent/s : Mr. Pranav Kumar

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5. 27-01-2016 Heard Sri Pramod Kumar Sinha, learned counsel for the petitioner and Sri Pranav Kumar, learned counsel for the respondent/Magadh University.

At the very outset, Sri Pranav Kumar, learned counsel for the University has again made a prayer for adjourning the case for filing counter affidavit.

Keeping in view the fact that writ petition was filed in the year 2011 and on number of dates, the case taken up and no



counter affidavit was filed, the prayer for adjourning the case for filing counter affidavit stands refused, particularly; in view of the fact that in an identical case, this Court has already allowed the writ petition pertaining to an employee of the B.D. College, Patna (earlier it was known as B.D.Evening College, Patna). The case of petitioner stands on similar footing. Earlier, in a writ petition, vide C.W.J.C. No. 8463 of 2015, a bench of this Court had quashed the order, whereby unilaterally a decision was taken for re-fixation of the pay-scale and recovery of the huge amount.

The petitioner in the present writ petition has prayed for quashing of part of order dated 19-04-2011 contained in **Annexure – 9** to the writ petition with respect serial no. 10, where name of petitioner appears. By the said order, direction was given to recover the amount from the employees. So far as petitioner is concerned, direction was issued for recovery of **Rs. 1,85,576/-** on the ground of objection raised by the Auditor of the Finance Department. It was claimed that the said order was issued unilaterally without any notice to the petitioner.

Since, similar matter has already been allowed by a bench of this Court placing reliance on a judgment of the Apex Court reported in **(2015) 4 S.C.C. 334 (State of Punjab and others –Vs.- Rafiq Masih (White Washer) and others)**, there is

no reason to deny the prayer of the petitioner.

Accordingly, in terms of order passed in C.W.J.C. No. 8463 of 2015 on 01-12-2015 and order dated 13-01-2016 passed in C.W.J.C. No. 6559 of 2011, the present writ petition is allowed and direction for recovery of **Rs. 1,85,576/-**, as contained in **Annexure – 9** to the writ petition, in respect of petitioner is hereby set aside.

Sri Pranav Kumar, learned counsel for the University submits that in the present case, no recovery has been effected, in view of order of stay granted by this Court on 27-06-2011.

In view of facts and circumstances, particularly, the fact that no recovery has been effected, there is no reason to pass any order for refund. The impugned order, so far as petitioner is concerned, is set aside.

The writ petition stands allowed.

(Rakesh Kumar, J.)

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