

**IN THE HIGH COURT OF JUDICATURE AT
PATNA**

Civil Writ Jurisdiction Case No.3234 of 2013

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1. Shamim Akhter S/O Late Hassan Akhter R/O Mohalla- New Azimabad Colony,
Post Office- Mahendru, Police Station- Bahadurpur, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Department Of Education (Higher Education), Government Of Bihar, New Secretariat, Patna
2. Secretary, Education Department Government Of Bihar, New Secretariat, Patna
3. Director, Education Department Government Of Bihar, New Secretariat, Patna
4. The Magadh University, Through Its Registrar, Bodh Gaya, Gaya
5. The Vice-Chancellor Magadh University, Bodh Gaya, Gaya
6. The Registrar, Magadh University, Bodh Gaya, Gaya
7. The Finance Officer, Magadh University, Bodh Gaya, Gaya
8. The Governing Body Of The Oriental College, Patna City Through Its Secretary Police Station- Khajekalan, District- Patna
9. Principal, Oriental College, Patna City, Police Station- Khajekalan, District- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yugal Kishore, Sr. Advocate
Mr. V. Prasad,
Mr. Uutan Sahay, Advocate.

For the State : Mr. Kaushal Kishor, Ac to GP23

For the University : Mr. Vipin Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-02-2016

Heard learned counsel for the petitioner and learned
counsel for the State as well as University.

In the present writ petition, petitioner is claiming the
salary and revised salary from April, 2011 to 31.7.2013.
Petitioner has already superannuated from service on 31.7.2010
on attaining the age of superannuation as at relevant time, the

age of superannuation for teacher was 62 years. He was appointed as a teacher in Physics faculty and continued as a teacher up-to 31.7.2010 as at the relevant time the age of superannuation of teacher was 62 years but later on age of superannuation has been enhanced to 65 years.

As per the claim of the petitioner after the amendment he worked from 1.3.2011 to 31.7.2013 i.e. up to the date of his superannuation but has not been paid any salary. Petitioner has drawn the attention of this Court towards the letter of the Principal of College dated 12.12.2015 (Annexure-9) address to the Director, Higher Education, Government of Bihar, Patna whereby and whereunder he has given a reply to the letter no. 2282 dated 30.11.2015 about the query of his working in the said College.

In reply it was made clear that during the period from 1.3.2011 to 31.7.2013 he attended the classes of Physics allotted to him and also annexed photo copy of the attendance sheet for corroboration of the fact.

Today learned counsel for the State relied upon the letter dated 30.11.2015 which has already been replied by the Principal of the College cannot be a basis for deprivation of salary of the petitioner when the Principal of the College has

already replied and his reply is supported by the attendance register which prima facie shows that he continued to work as a teacher during the aforesaid period but he has been deprived from the salary which amounts to violation of Article 23 of the Constitution of India. If a person works he cannot be denied his salary otherwise it will be treated to be unfair act on the part of the State Government.

As it is amply clear that petitioner has worked during the aforesaid period, the Director Higher Education, Government of Bihar, Patna is directed to examine the case of the petitioner and release the salary including revised salary to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

Accordingly this writ petition is allowed.

Vinay/-

(Shivaji Pandey, J)

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