

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.953 of 2011
IN
Civil Writ Jurisdiction Case No. 12035 of 2010**

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Dr.Brahm Deo Sah, Son of Late Janki Sah Mohalla Vijay Nagar, Road No. 2
(Hanuman Nagar) P.S. Patrakar Nagar, Patna 26, Dist. Patna.

.... Appellant/s

Versus

1. The State Of Bihar Through The Secretary, Human Resources Development Department, Govt. Of Bihar. Patna.
2. The Director Education, Human Resources Development Department, Govt. Of Bihar, Patna.
3. The Magadh University, Bodh Gaya, Through Its Registrar.
4. The Vice Chancellor, Magadh University, Bodh Gaya.
5. The Registrar, Magadh University, Bodh Gaya.
6. The Finance Officer Magadh University, Bodh Gaya.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dhananjay Kumar, Advocate
For the State : Mr. Anil Kumar, AC to GP 20
For the Magadh University : Mr. Kumar Amitesh Chandra

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 12-09-2017

Seeking exception to an order dated 25.03.2011 passed by
the learned Writ Court in CWJC No. 12035 of 2010 this appeal has
been filed under Clause 10 of the Letters Patent.

The petitioner was working in a private institution,
namely, R.K.D. College, Patna and the dispute pertains to payment of
salary to the petitioner for the period prior to 1986 when the college
was under the management of the private institute. As far as the claim



for salary after December, 1986 is concerned, the same has been settled and paid to the petitioner. However, as far as the salary for the period prior to the same is concerned, the Vice-Chancellor of the University decided the appeal of the petitioner vide Annexure-19 to the writ petition on 12.05.2010 and found that the State Government has released the grant for payment of salary required for the period after conversion of the college as a constituent unit. The appellant himself was the Principal of the college and when the college was taken over an agreement was made between the Principal and the Secretary of the college with the Registrar of the University that no claim for salary would be made for the period prior to December, 1986.

That apart, the Vice-Chancellor in paragraph-4 of his order also refers to a letter No. 1095 dated 19.08.1986 which clearly states that neither the University nor the State Government will be liable to clear the liability of unpaid salary for the period prior to the date of conversion of the college.

Now, if that was the case of the appellant himself and as the Principal of the college has made such an agreement, the learned Writ Court has dismissed the writ petition so observing that the stand of the Vice Chancellor as per record is that Principal and the Secretary of the college had given a clear undertaking to the University that they



would have no claim for salary for the period prior to December, 1986 and this aspect has not been denied as such and now we see no reason to make any indulgence into the matter.

Even though the learned counsel for the appellant argues that grant of Rs. 71 crores has been made by the State Government to meet the deficit grant for full salary to the teaching staff of the college it is the case of the University and the Government that this was for payment of salary for various periods subsequent to taking over of the institution and not for payment to the appellant.

Be that as it may, once from the documents and material available on record and on the basis of the agreement of the appellant himself, for the reasons as are indicated hereinabove, the Vice Chancellor has rejected the claim of the petitioner we see no reason to make any further indulgence into the matter.

The appeal is, accordingly, dismissed. .

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl

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