

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1290 of 2008

In

Civil Writ Jurisdiction Case No. 16075 of 2006

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Dr. Kameshwar Prasad Singh S/o Shri Tilakdhari Singh, resident of A/31
Ashokpuri, Khajpura, PO B V College, PS Shastri Nagar, District Patna, Pin Code -
800014

.... Petitioner/ Petitioner

Versus

1. The State of Bihar
2. Dr. B N Pandey, The Vice-Chancellor, Magadh University, Bodh-Gaya, PO Bodh-Gaya, Dist. Gaya
3. Dr. D K Yadav, The Registrar, Magadh University Bodh-Gaya, PO Bodh-Gaya, District Gaya
4. Mr. S N Srivastava, The Finance Officer, Magadh University, Bodh-Gaya, PO Bodh-Gaya, Dist. Gaya
5. Mr. Ram Naresh Singh, Principal, TPS College, Patna, PO Chiriyatand, Dist. Patna
6. Sri Laxman Ram, Senior Auditor, Finance Department, Govt. of Bihar, assigned with the Audit of M.U.

.... Respondent/s/ Opposite Parties

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Appearance :

For the Petitioner/s : Mr. R.K.P. SINGH, Advocate
Mr. Manish Kishore
Mr. Bal Bhushan Choudhary

For the University : Mr. Shivendra Kishore, Sr. Advocate
Mr. Ritesh Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 04-10-2017

Inter alia contending that certain order passed by the
learned Writ Court in CWJC No. 16075 of 2006 on 30th October,
2007 has not been complied with this application has been filed for
initiating action for contempt.

Petitioner who was working in the respondent-University
had filed the writ petition in question seeking revision of pension and



settlement of his pensionary dues as claimed in paragraph-26 of the writ petition. After hearing learned counsel who appeared for the parties on 30th October, 2007 the writ petition was disposed of with the following directions:-

“In these circumstances the writ petition is disposed of by directing the University to pay to the petitioner out of the next grant to be received by it the claims of the petitioner as particularized in paragraph 26 of the writ petition less the amount already paid within a period of two months from today.

The University is also directed to revise the pension of the petitioner to the extent the petitioner is entitled to the same, such revision be also effected within two months from today. Let five percent be paid to the petitioner on the amount of gratuity from 30th September, 2004 until payment.

Let interest on the Group Insurance be paid at the rate of 12%. While making payment interest on the Group Insurance, the interest already paid shall be adjusted.

In the event the payments as directed above are not made within the time as mentioned above, additional interest at the rate of 12% per annum from today until payment shall be made.

This disposes of the writ petition.”

Inter alia contending that settlement of claim of the



petitioner has not been made inspite of the representation submitted vide Annexure-2 to the competent authority of the University, the contempt application was filed nine years back on 19th May, 2005 for issuance notice to the respondents. The respondents immediately filed show-cause on 02.07.2009 and from paragraph-4 onwards pointed out that the petitioner was working as a Reader in the Department of Mathematics, Kisan College, Sohsarai. He retired on 30th November 2004, and his pension, gratuity, interest on group insurance, leave encashment and other outstanding dues have been paid in accordance with the detailed statement made in paragraph-5 onwards of the show cause. After the aforesaid show cause was filed, the petitioner filed supplementary to the same and indicated in paragraph-6 that a sum of Rs.2,35,787/- along with interest amounting to Rs.2,72,739/- is still to be paid and there is no complete compliance.

Respondents again filed a supplementary show cause to this and indicated that the petitioner has been paid all the benefits and gave a detailed statement indicating the calculation made by them in paragraph-5 in a tabulated form. They indicated that certain payment with regard to earned leave and other benefits have not been paid to the petitioner. It was further indicated that the University has made a communication to the Principal of the institute where the petitioner was working to submit the bills of arrear and to get it audited by the



Finance Department of the State Government. The petitioner again filed a counter affidavit and indicated that his claim has not been settled in accordance with the direction of the Court and disputed the claim by raising certain grounds based on his Service Book and other documents filed. The Senior Auditor, Finance Department, Govt. of Bihar replied to the same and indicated by filing a detailed chart that all dues payable to the petitioner have been paid. However, when the petitioner again disputed the claim the respondents filed second supplementary show cause on 29.08.2016 and in paragraph-3 gave a detailed account based on the audit done by the Finance Department of the State Government. A detailed chart Annexure-B was filed indicating that all the claims have been settled and on the contrary, some amounts are to be recovered from the petitioner. The petitioner has now filed a detailed affidavit along with Annexure-11 to show that a sum of Rs.4,18,273/- is payable to him.

During the course of hearing of the matter both the parties stuck to their respective stand. The petitioner has to say that his claim has not been properly settled and the respondents demonstrated their compliance. That being so now in this contempt proceeding this Court is required to take action either to punish the respondents or to go into the disputed claim between the parties and adjudicate the claim which is disputed in the matter of payment of dues to the



petitioner.

A perusal of the detailed order passed in the writ petition on 30.10.2007 would go to show that this Court has not issued any order or direction after quantifying the claim of the petitioner. The only direction issued in the writ petition to the University was to pay to the petitioner his dues out of the next grant to be received by it. In respect of the claim as particularized by the petitioner in paragraph-26 of the writ petition along with certain interest, there is no specific order directing as to how much amount is to be paid on different heads like the gratuity, leave encashment, pensionary benefits etc. The matter was remitted to the University to settle the claim. The University as per their quantification and justification given in the affidavit and supplementary affidavit has indicated that they have settled the claim. The petitioner contests the same and comes out with the case that his claim has not been properly settled. The question therefore now is, in the absence of adjudication of the claim of the petitioner can in the backdrop of the dispute now raised, the same can be considered in these contempt proceeding. This Court can not adjudicate the dispute and determine the claim of the petitioner in a contempt proceeding. In my considered view it is beyond the jurisdiction of this Court in a contempt proceeding to go into this area of adjudication, evaluate the



claim of the petitioner consider the objection of the respondents and thereafter decide the dispute by accepting or rejecting the contention of either of the parties and thereafter issue direction for payment of the amount, if any, due. This is beyond the jurisdiction of this Court in a contempt proceeding. In a contempt proceeding, this Court can only direct for payment of the amount which is due to be paid to the petitioner for which adjudication has already been taken place and quantification has already been done in the writ proceeding. This Court in a contempt proceeding cannot adjudicate the claim which has not been adjudicated by the Court of appropriate jurisdiction in the writ petition and thereafter direct for its payment. This in my considered view is beyond the jurisdiction of this Court exercising limited jurisdiction in a contempt proceeding. This Court can only direct the respondents to make payment of the amount for which adjudication has already been done, however but in the garb of exercising contempt jurisdiction this Court cannot enter into an area, conducting a fresh adjudication, determine the dispute quantifying the amount and direct for making payment. This is not permissible.

Now, therefore, when there are serious disputes between the parties with regard to amount payable this Court does not see any reason to keep the matter pending or issue any direction. In case the petitioner is still not satisfied in the manner of calculation done and



the settlement of his dues made, a fresh cause of action may arise for getting the same adjudicated in an appropriate forum with proper jurisdiction to deal with the matter. However, in this proceeding for contempt under Article 215 of the Constitution read with Section 12 of the Contempt of Court Act, 1971 I am not inclined to go into the dispute pertaining to quantification of the amount and on such ground no further action is required to be taken in the matter.

Accordingly, finding no case for contempt the respondents are discharged from further proceeding with the liberty to the petitioner as indicated hereinabove.

(Rajendra Menon, CJ)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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