

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.18 of 2015

IN

Civil Writ Jurisdiction Case No. 32 of 2014

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Amrendra Kumar Sinha, S/o Late Kedar Prasad Sinha, Assistant, Jamalpur College,
Jamalpur, P.S.-Naya Ramnagar, District-Munger.

.... Petitioner

Versus

1. The T.M. Bhagalpur University, Bhagalpur, through its Registrar, namely, Dr. M.G. Mustafa.
2. Dr. R.S. Dubey, Vice-Chancellor, T.M. Bhagalpur University, Bhagalpur.
3. Mr. B.P. Verma, Finance Officer, T.M. Bhagalpur University, Bhagalpur
4. The Principal, Jamalpur College, Jamalpur, P.S.-Naya Ramnagar, Distt-Munger, namely, Dr. Amit Ranjan Das.
5. The State Govt. Auditor, at T.M. Bhagalpur University, Bhagalpur, namely, Mr. Ajay Kumar Singh.
6. The State of Bihar, through the Principal Secretary, Department of Education, Government of Bihar, New Secretariate, Patna, namely, Mr. R.K. Mahajan, I.A.S.
7. The Director, Higher Education Department, Govt. of Bihar, Patna, namely, Mr. S.M. Karim.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Purushottam Kumar Jha, Adv.

For the Respondent/s : Mr. Rajiv Roy, G.P.-5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 11-04-2017

Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the University.

2. In this case, the petitioner has raised grievance that the
order dated 24.04.2014 passed in C.W.J.C. No. 32 of 2014 has not



been complied with.

3. As it appears from the record, the father of the petitioner was a class-III employee (Head Clerk) in Jamalpur College, Jamalpur. The claim of the petitioner is that he has continued to discharge the duty, but payment was withheld from February, 2010 without any reason, that coerced him to approach this Court in the aforesaid writ application. This Court has taken into consideration the factual aspect of the matter and issued the direction in the following manner:-

“11. It is true that the petitioner has been subjected to some unnecessary harassment for a period of more than four years by denying him payment of salary. Fiscal discipline however is equally important, inasmuch as, if the appointment of the petitioner was made by the University without ascertaining availability of a vacant sanctioned post, the Government is not bound to pay such amount. In that situation, it will be the duty of the University to make payment of salary of the petitioner from its own resources. At the same time, as this Court would find that the State Government and the University itself had projected before Justice S.C. Agarwal Committee that there were six sanctioned post in the Class-3 post in the college.



12. *Thus both the officials of the State Government and the University must take a conscious decision as with regard to the availability of a vacant sanctioned post and consequential payment of salary to the petitioner within a period of two months from the date of receipt of this order.*

13. *It goes without saying that if a decision for payment of petitioner is taken jointly by the University and the State Government, fund for the same will also be released but, if the Government finds that the appointment of the petitioner was made against unsanctioned post, it will communicate to the University that the Government is not bound to release payment of salary to the petitioner and in that event, the University will have to pay the salary from its own resources. Whatever may be the ultimate decision, that must be taken in a period of two months as indicated above.”*

4. A supplementary show-cause has been filed by the State on 03.04.2017, in which an order dated 31.03.2017 has been attached, from where it appears that the petitioner has been treated to have been appointed on class-III post from the date of his working on the said post. It also appears that arrears of salary of Rs.88, 270/- has been paid to him.

5. Learned counsel for the petitioner submits that by the



aforesaid letter his pay scale has been reduced, which cannot be done by the Director, Higher Education. He has drawn the attention of this Court to the letter dated 15.07.2015 (Annexure-13) by which the pay of the petitioner has been reduced.

6. Learned counsel for the petitioner further submits that for certain parts of the order, he has filed an appeal being L.P.A. No.1165 of 2014.

7. In such view of the matter, there is no need to keep this matter pending. Accordingly, this contempt proceeding is dropped. The petitioners, if so liked, may challenge the order of the respondent-authority.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	13.04.2017
Transmission Date	N/A.

