

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9536 of 2016

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Jai Prakash Singh son of Late Gaya Singh, resident of village- Dioura, P.S.-
Pakaribarawan, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Higher Education, Govt. of Bihar, Patna.
3. 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.
7. The Principal, T.S. College, Hisua, Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Lochan, Advocate
	:	Mr. Rajeev Nayan, Advocate
For the State	:	Mr. Ranjan Kumar, A.C. to G.A.-12
For the University	:	Mr. Vipin Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 06-04-2017

The present writ application has been filed by the petitioner for a direction upon the respondents to make payment of arrear in terms of retiral dues i.e., earned leave, gratuity and pension as well as salary on account of sanction of revised pay scale in view of the State Government memo no.1163 dated 26.06.2014, as contained in Annexure-1 to the writ application.

2. The facts of the case are not in dispute. The petitioner was working against a sanctioned post of 'Sorter' in T.S.College, Hisua, Nawada, a constituent unit of Magadh University, Bodh Gaya



and on attaining the age of superannuation he retired on 20.02.2014. After retirement, he has been paid all his admissible retiral dues in the scale of Rs.3,500 to 4,590/-. However, immediately after his retirement, the State Government sanctioned the pay scale of Rs.4,000-6,000/- to the Library Assistasnt, Sorter, Correspondence Clerk and Routine Clerk working in the Universities of the State and its constituent colleges with effect from 01.04.1997, vide memo no.1163 dated 20.06.2014. In view of the orders of the Hon'ble Supreme Court in Civil Appeal No.516 of 2013 and Contempt Petition (Civil) No.262 of 2013.

3. The contention of the petitioner is that pursuant to the aforesaid memo no.1163 dated 20.06.2014, the Magadh University also issued a consequential office order sanctioning the revised scale to its non-teaching employees, vide letter no.131/GIB/14 dated 05.08.2014. The college authority also revised the salary of its employees in revised scale and consequently the salary of the petitioner was also revised with effect from 01.04.1997 and salary statement in respect of admissible salary on the date of retirement of the petitioner was issued. The college authority even prepared the statement of arrear claim of its employees wherein the arrear claim of the petitioner was also calculated and prepared with effect from 01.04.1997 till the date of his retirement i.e., 28.02.2014 and



consolidated bill along with details of arrear in respect of salary amounting to Rs.2,49,705/- was forwarded to the Finance Officer, Magadh University, Bodh Gaya vide letter dated 15.10.2015 for its payment, but no payment has been made so far.

4. On the hand, learned counsel appearing for the Magadh University submitted that the petitioner has already been paid his retiral benefits in the pay scale of Rs.3,500 to 4,590/- from 01.04.1996 and its replacement pay scale from 01.01.2006. He submitted that replacement pay scale of Rs.4,000 to 6,000/- on 01.01.2006 is same as pay scale of Rs.3,500 to 4,590/-. He submitted that the actual payment of the petitioner can be made only after verification of his service is made by the Verification Cell of the State Government in terms of order issued by the State Government vide memo no.1163 dated 20.06.2014.

5. A counter affidavit has been filed on behalf of respondent nos. 1 and 2 wherein it is stated that the State Government vide memo no.1352 dated 29.08.2016 has modified the clause (1) and (3) of the Government Memo No.1163 dated 20.06.2014 suppressing the condition that the Universities are to get the record of such employees examined by the Pay Verification Cell. It is further stated in the counter affidavit that vide memo no.38 dated 05.10.2016 the State Government has sanctioned and released the grants to the



Universities in which in para 4 clause (xiv) it has specifically been stated that to ensure payment from this fund in view of the order passed in Civil Appeal No.516 of 2013 and Contempt Petition (Civil) No.262 of 2013 and Government orders issued in this regard.

6. Referring to the contentions in the counter affidavit filed on behalf of respondent nos.1 and 2, learned counsel for the State submitted that the University is the competent authority to look into the factual claim of the petitioner, ascertain the same and make payment in accordance with law.

7. I have heard learned counsel for the parties and perused the record.

8. Apparently, there is no dispute regarding claim and entitlement of the petitioner to receive arrear of salary and retiral dues i.e., earned leave, gratuity and pension in terms of the revised pay scale issued vide memo no. 1163 dated 20.06.2014. Formalities in this regard have also been completed and the State has released the amount to the University for payment to its employees. Under such circumstance, the University ought to have made the payment to the petitioner without delay. However, for no justifiable reason, the petitioner has been compelled to approach this Court for a direction to make payment of arrear in terms of retiral dues as well as salary on account of sanction of revised pay scale.



9. Keeping in mind the totality of the circumstances, I direct the respondent no.5 to release all the admissible arrear of salary and retiral dues of the petitioner in terms of revised scale of pay in the pay scale of Rs.4,000 to 6,000/- within a period of two months from the date of receipt/production of a copy of this order along with a representation by the petitioner in this regard.

10. With the aforesaid observations and directions, the writ application is disposed of. No costs.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.04.2017
Transmission Date	

