

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13062 of 2016

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Smt. Vijaya Rani Agrawal aged about 65 years wife of Late Rajendra Prasad Agrawal presently residing at T-113, Block-4, Rangoli Gardens, Maharna Pratap Marg, Jaipur- 302034, Rajasthan and resident of Anant Bagh, Near Rajeshwar Hospital, Kankarbagh, Patna-20, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar represented through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Magadh University, Bodh Gaya, District- Gaya represented through its registrar.
3. The Vice Chancellor, Magadh University, Bodh Gaya, Gaya.
4. The Registrar, Magadh University, Bodh Gaya, Gaya.
5. The Finance Officer, Magadh University, Bodh Gaya, District- Gaya.
6. The Principal College of Commerce, Arts & Science, Magadh University, Kankarbagh, Patna-20, Bihar, and
7. The Accountant General (Accounts and Entitlement), Bihar, Veer Chand Patel Marg, R-Block, Patna- 800001, Bihar. (deleted by the order of the Court dated 19.08.2017)

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Ravish, Advocate
For the State	:	Mr. Mrigendra Kumar, AC to GA 4
For the M.U.	:	Mr. Arbind Nath Pandey, Advocate
For the A.G.	:	Mr. Satyendra Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 19-08-2017

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

2. The petitioner has moved the Court for the
following reliefs:

“ (i) To issue a writ of mandamus directing and



commanding the respondents particularly the Magadh University and its officials to immediately sanction and pay forthwith her paost retiral benefits viz. pension, gratuity, leave encashment, benefits under the ground insurance, general provident fund etc. without further delay;

(ii) To pay arrears of pension with interest w.e.f. 01.11.2012;

(iii) To pay interest both statutory as well as penal on account of delayed payment;

(iv) Cost of this litigation, and

(v) Any other relief or relifs(s) which this petitioner may be found entitled to in the facts and circumstances of the case.”

3. Learned counsel for the Accountant General, who is present, submitted that he has no role in the matter and has been erroneously made party.

4. Learned counsel for the petitioner accepts the said fact and seeks permission to delete the respondent no. 7 from the array of the respondents.

5. In view thereof, the respondent no. 7 is deleted from array of the respondents. Let necessary correction be made by learned counsel for the petitioner during the course of the day.



6. It has been submitted by learned counsel for the Magadh University that a new Vice Chancellor has taken over quite recently and he has set up a Grievance Redressal Cell in which he himself hears the complaints and decides the same. Learned counsel submitted that the petitioner may also approach the Vice Chancellor in the matter who shall take appropriate decision.

7. Learned counsel for the petitioner submitted that she is agreeable to move before the Vice Chancellor for the remaining matters, except in the matter where she claims full salary for the period the petitioner has actually worked though her pension be fixed with effect from a retrospective date and actual payment of pension to start from the date she actually demitted the office. Learned counsel submitted that she continued to work on the post of Demonstrator till 18.01.2014 for which she has been paid full salary but by letter dated 18.01.2014, she was deemed to have retired with effect from 31.10.2012 and now the authorities have decided to recover/adjust the salary from her pensionary benefits. Learned counsel submitted that the petitioner having actually worked for the said period is entitled to the salary for work performed not due to any misrepresentation or laches or fault on the part of the petitioner.

8. Learned counsel for the State submitted that it is for



the Magadh University to take a decision in the matter.

9. Learned counsel for the Magadh University submitted that all such matters be remanded to the Vice Chancellor for consideration. However, he is not in a position to controvert the fact that the petitioner actually discharged her duties till 18.01.2014.

10. Having considered the rival contentions, the Court finds substance in the contention of learned counsel for the petitioner that having actually discharged her duties on the post of Demonstrator till 18.01.2014, she is entitled to full salary for the said period *moreso*, in view of the fact that there is no allegation of any misrepresentation or collusiveness on her part for such a situation to arise. If, *bona fide* and without any objection from any quarter she has discharged her duty as Demonstrator till 18.01.2014, equity demands that she gets the benefit for such duty performed. As the petitioner herself is agreeable to her pensionary benefits being fixed with effect from 31.10.2012, let the same be done notionally. However, since the petitioner has been held entitled to full salary till 18.01.2014, the actual payment of pension shall start with effect from 19.01.2014, though at the rate fixed with effect from 31.10.2012.

11. To such extent, the issue stands decided in the aforementioned terms.



12. With regard to the remaining grievances which the petitioner may have, she is at liberty to file a representation before the respondent no. 3 within three weeks from today along with a copy of this order. Upon the same being done, the respondent no. 3 shall, after giving an opportunity of hearing to the petitioner, pass reasoned order within the next four weeks. If any further payment is required to be made to the petitioner, the same shall also be made within the next four weeks.

(Ahsanuddin Amanullah, J)

Anjani/-

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