

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21809 of 2011

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Baidya Nath Thakur S/O Late Baleshwar Thakur Resident Of Village Barmotra, P.O. + P.S. Pandaul, District Madhubani, A Superannuated Employee As Assistant From R.N. College, Pandaul, Madhubani, A Constituent Unit Of L.N.M.U. Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Higher Education, Govt. Of Bihar, Patna.
3. The Vice Chancellor, L.N. Mithila University, Darbhanga.
4. The Registrar, L.N. Mithila University, Darbhanga.
5. The Finance Officer, L.N. Mithila University, Darbhanga.
6. The Principal. R.N. College, Pandaul, District Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh, Advocate
For L.N.M. University	:	Mr. Ajay Behari Sinha, Advocate
For the State	:	Mr. Wasi Ahmad Khan, AC to SC-25

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

5 03-11-2017 Heard the parties.

In the present writ application, the following reliefs have been sought for on behalf of the petitioner :

(I) For issuance of an appropriate writ in the nature of certiorari for quashing the letter dated 4.8.2011 by which the respondent No.4 has communicated to the petitioner that on pretext of objection raised by the auditor, 157 974 + 10351/- is recoverable and same will be recovered in case of non reply by the petitioner on excess paid amount, though, no reason has been assigned in the impugned order regarding the slashing down the pay scale of the petitioner from Rs.5000-8000/- to 4000-6000 and



without hearing and taking any decision of the reply of the petitioner ex-parte decision has been taken and Rs.4,32,668/- has been adjusted and aforesaid amount is being recovered on the pretext of objection raised by the state auditor, who has no power under the law to reduce the pay scale of university employees, this power is vested only to 'Appointment, Approval, Seniority & Pay-Fixation Committee' which has fixed the pay the pay-scale of the petitioner in pay-scale of 5000-8000 whereas the Director Higher Education, Govt. of Bihar and Addl. Commissioner, Human Resources Development Department Govt. of Bihar have issued letter and admitted that only statutory committee is entitled to fix the pay-scale of the University employees.

(II) For issuance of an appropriate writ in the nature of mandamus commanding and directing the respondent authorities to not slash down the pay scale of the petitioner from 5000-8000 to 4000-6000 and not adjust Rs.432,668/- from the salary and pension amount of the petitioner and stop the recovery of Rs.157974+10351/- which is being made on the pretext of the objection of the auditor who has no power under the Act and Statute to alter the pay-scale of University employees, because, from 1968, till the date of retirement i.e. 31.1.2007 all the times the pay scale of the petitioner was fixed by the statutory Committee and on that scale he has been paid salary as well pension prior to issuance of letter dated 4.8.2011 and the action is also in violation of



Natural Justice.

(III) For issuance of an appropriate writ in the nature of Mandamus commanding and directing the respondent authorities to make payment the entire dues in pay scale of Rs.5000-8000 effective from 1.1.96.

It has further been submitted on behalf of the counsel for the petitioner that the case of the petitioner is squarely covered by the order passed by the Hon'ble Supreme Court in Civil Appeal No.516 of 2013 (State of Bihar versus Sunny Prakash)

Counsel for the petitioner further points out that the recovery of the excessive payment made to the petitioner is in contravention to the order passed by the Hon'ble Supreme Court in the case of State of Punjab & ors. Versus Rafiq Masih & ors. [2015(4) SCC 334].

Considering the submissions made on behalf of the petitioner, the petitioner is directed to file a representation before the Respondent No.3 i.e. The Vice Chancellor, L.N. Mithila University, Darbhanga. The Respondent No.3 shall pass a reasoned order in accordance with law within a period of three months from the date of filing of such representation by the petitioner taking into account the decisions as referred by the petitioner. The Respondent No.3 shall be further obliged to grant



benefits after examining the claim of the petitioner. As per the Clause 4.C (1) of the State Litigation Policy of the State of Bihar, the petitioner shall be treated identically, to the similarly situated persons.

The counsel for the petitioner has further relied upon the Annexure-5 to the I.A. No.5666 of 2016 of this writ application, issued by the State Government vide Letter No.1192 dated 23.06.2014.

With the aforesaid observation and direction, the present writ application stands disposed of.

(Sudhir Singh, J)

Narendra/-

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