

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8933 of 2010

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Prof. Rama Kant Mishra S/O Late Lakshmi Kant Mishra R/O Babu Saheb Chowk,
South Of Central Public School, P.O. Madhubani, P.S. Sadar, Madhubani Distt. and
Town Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar
2. Principal Secretary, Human Resources Development Department, Govt. Of Bihar, Patna
3. Director, Higher Education, Human Resources Development Department, Govt. Of Bihar, Patna
4. Vice Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga
5. Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga
6. Finance Officer, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga
7. Principal, J.N.College, Madhubani

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3122 of 2011

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Prof. Rama Kant Mishra S/O Late Lakshmi Kant Mishra R/O Babu Saheb Chowk,
South Of Central Public School, P.O. Madhubani, P.S. Sadar, Madhubani Distt. and
Town Madhubani

.... Petitioner/s

Versus

1. The Vice Chancellor, L. N. Mithila University, Kameshwar Nagar, Darbhanga
2. The Registrar, L. N. Mithila University, Kameshwar Nagar, Darbhanga
3. The Finance Officer, L. N. Mithila University, Kameshwar Nagar, Darbhanga

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 9039 of 2010

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Prof. Birendra Kr. Srivastava, S/O Late Kamla Prasad Srivastava, R/O Hospital Road , Near Income Tax Office, P.O. & P.S. Madhubani, District- Madhubani.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Principal Secretary, Human Resources Development Department, Govt. Of Bihar, Patna.
3. Director, Higher Education, Human Resources Development Department , Govt.



Of Bihar, Patna.

4. Vice Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar Darbhanga.
5. Registrar, Lalit Narayan Mithila University, Kameshwar Nagar Darbhanga.
6. Finance Officer, Lalit Narayan Mithila University, Kameshwar Nagar Darbhanga.
7. Principal, J.N.College, Madhubani.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 1853 of 2011

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Birendra Kumar Shrivastava S/O Late Kamla Prasad Shrivastava Resident of Hospital Road, Near Income Tax Office, P.O. & P.S.- Madhubani, District - Madhubani

.... Petitioner/s

Versus

1. The Vice-Chancellor, L.N.Mithila University, Kameshwar Nagar, Darbhanga
2. The Registrar, L.N. Mithila University, Kameshwar Nagar, Darbhanga
3. The Finance Officer, L.N. Mithila University, Kameshwar Nagar, Darbhanga

.... Respondent/s

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Appearance :

(In CWJC No.8933 of 2010)

For the Petitioner/s : Mr. DHIRENDRA KR.JHA 2, Advocate
Mr. Krishna Chandra Jha, Advocate

For the Respondent/s : Mr. (SC16)
Mr. Pushkar Narain Shahi, Advocate

(In CWJC No.3122 of 2011)

For the Petitioner/s : Mr. DHIRENDRA KUMAR JHA, Advocate
For the Respondent/s : Mr. PUSHKAR NARAIN SHAHI, Advocate

(In CWJC No.9039 of 2010)

For the Petitioner/s : Mr. DHIRENDRA KR.JHA 2, Advocate
Mr. Krishna Chandra Jha, Advocate

For the Respondent/s : Mr. (SC13)
Mr. Nivedita Nirvikar, Advocate
Mr. Pushkar Narain Shahi, Advocate

(In CWJC No.1853 of 2011)

For the Petitioner/s : Mr. DHIRENDRA KUMAR JHA, Advocate
For the Respondent/s : Mr. PUSHKAR NARAIN SHAHI, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 08-04-2017



The aforesaid writ applications have been preferred by the above named two petitioners with similar relief with regard to payment of arrears of pay in revised scale as well as refund of the recovered amount.

In CWJC No. 3122 of 2011, petitioner Prof. Rama Kant Mishra has prayed for quashing the letter bearing Memo No. A/C 3173-77/10 dated 11.12.2010 issued by Respondent no.2 to the Principal, J.N. College, Madhubani directing him to deduct Rs. 10,000/- per month from the salary of the petitioner, total amounting to Rs. 1,63,576/-, further for quashing the pay fixation of the petitioner made in the light of the judgment passed in C.W.J.C. No. 5859 of 1996 fixing Rs. 9,375/- as his pay point on 01.01.1996, further for directing the respondents to fix the pay point of the petitioner at Rs. 9,925/- as basic pay instead of Rs. 9,375/- as basic pay fixed by the University and pay the arrears amount arising thereof and further for any relief or reliefs for which the petitioner may be found entitled.

C.W.J.C. No. 8933 of 2010 has been filed with specific prayer for directing the respondent to make payment of the arrears of difference of salary for the period from January, 1996 to August, 2005 including the necessary allowances, for directing the respondents to make payment of a suitable amount of interest over the aforesaid



arrears of salary and for any other relief or reliefs for which the petitioner may be entitled.

In CWJC No. 1853 of 2011, petitioner Birendra Kumar Shrivastava has prayed for quashing the letter bearing Memo No. A/C 3188-91/10 dated 11.12.2010 (Annexure-7) issued by Respondent no.2 to the Principal, J.N. College, Madhubani directing him to deduct Rs. 10,000/- per month from the salary of the petitioner, total amounting to Rs. 1,61,060/-, further for quashing the pay fixation of the petitioner made in the light of the judgment passed in C.W.J.C. No. 5859 of 1996 fixing Rs. 9375/- as his pay point on 01.01.1996, for directing the respondents to fix the pay point of the petitioner at Rs. 9,925/- as basic pay instead of Rs. 9,375/- as basic pay fixed by the University and pay the arrears amount arising thereof and further for any relief or reliefs for which the petitioner may be found entitled.

C.W.J.C. No. 9039 of 2010 has been filed with specific prayer for directing the respondent to make payment of the arrears of difference of salary for the period from January, 1996 to August, 2005 including the necessary allowances, for directing the respondents to make payment of a suitable amount of interest over the aforesaid arrears of salary and for any other relief or reliefs for which the petitioner may be entitled.

Mr. Dharendra Kumar Jha-2, learned counsel for the



petitioners submits that so far as petitioner Prof. Rama Kant Mishra is concerned, his grievances have been redressed as all the payments including the deducted recovered amount of Rs. 1,63,576/- have been refunded, hence, both the writ applications being CWJC Nos. 3122 of 2011 and 8933 of 2010 filed by petitioner Prof. Rama Kant Mishra have become infructuous.

Hence, both the writ applications are dismissed as infructuous.

So far as petitioner Prof. Birendra Kumar Srivastava of CWJC Nos. 9039 of 2010 and 1853 of 2011 is concerned, it is submitted by learned counsel for the petitioner that he has been paid the arrears of pay including the revised scale but the recovered amount of Rs. 60,000/- has not been refunded.

However, Mr. Ajay Bihari Sinha, learned counsel for the respondents submits that the recovered amount of Rs. 60,000/- has also been paid by way of making payment of Rs. 60,860/-, and a statement to that effect has been made in para 5 of the counter affidavit which reads as follows:-

“5. That the university got petitioners salary re-calculated and his claim examined and he was paid further a sum of Rs. 60,866/- against his claim of Rs. 60,000/-. This amount was released vide cheque no. 031582 dated 31.03.2015 for Rs. 60866/- with intimation to the petitioner vide letter no. LC-138/15 dated 08.04.2015.”



Learned counsel for the petitioners submits that the recovered amount of Rs.60,000/- has not been refunded and amount of Rs. 60,866/- which has been paid, relates to the arrears of revised salary and this fact also gets clarified from the fact that recovered amount was of Rs. 60,000/- and the petitioner has been paid Rs. 60,866/-, hence there was no occasion to make extra payment of Rs. 866/-.

Mr. Ajay Bihari Sinha, learned counsel for the Lalit Narayan Mithila University submits that if the recovered amount has not been refunded, it will be refunded within a period of three weeks from the date of receipt/production of the copy of this order.

In view of the above stand of the learned counsel for University, both the writ applications being CWJC Nos. 9039 of 2010 and 1853 of 2011 (Prof. Birendra Kumar Srivastava Vs. The State of Bihar and Ors.) are disposed of with liberty to the petitioner to file fresh writ application, in case, any grievance with regard to refund of recovered amount, arises further.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.04.2017
Transmission Date	

