

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 144 of 2015

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Dr. Rishi Muni Upadhyay son of Deep Narayan Upadhyay, resident of Village-
Ekawani, Police Station- Dumraon, district-Buxar, presently working as an ad-
hoc Lecturer, Department of History, D.K. College, Dumraon, District- Buxar.

.... Petitioner

Versus

1. The State of Bihar
2. The Hon'ble Chancellor-cum-Governor, State of Bihar.
3. The Principal Secretary (Higher Education , Human Resources Development
Department) , Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Finance,. Govt. of Bihar, Patna.
5. The Vice Chancellor, Veer Kunwar Singh University, Ara at Ara.
6. The Registrar, Veer Kuwar Singh University, Ara at Ara.
7. The Principal , D.K.College, Dumraon.
8. The Vice-Chancellor, Magadh University, Bodh Gaya.
9. The Registrar , Magadh Univerity, Bodh Gaya,.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Umesh Narayan Dubey
For the Respondent/s : Mr. Vivek Prasad, G.P.-7
Mr. S.K.Sazaf, AC to GP-7
Mr. Rajesh Pd. Chaudhary

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 28-01-2017

Heard Sri Umesh Narayan Dubey, learned counsel for the
petitioner, learned A.C. to Govt. Pleader – 7 and Sri Rajesh Prasad
Chaudhary, learned counsel, who has appeared on behalf of
respondent/Veer Kunwar Singh University.

2. The sole petitioner has approached this Court invoking
its writ jurisdiction under Article 226 of the Constitution of India, with
a prayer to grant following reliefs:-

- (i) **For issuance of writ of mandamus to the
respondents to pay agreed salary to the**



petitioner from the date of his initial joining till May, 1990 in the light of the direction given by the Hon'ble Chancellor vide letter No. 155/OSD/GS(J) dated 21st December, 1984 which was the basic salary of a lecturer at that relevant time and revised from time to time as well.

(ii) For issuance of writ of mandamus to the respondents to pay salary of a lecturer to the petitioner from 01.06.1990 till he is on work as an ad-hoc lecturer.

3. It has been claimed by the petitioner that he was engaged on adhoc basis as lecturer/professor incharge and head of the department of History in one D.K.College, Dumraon on 15-03-1985.

4. Learned counsel for the petitioner orally submits that the petitioner is working on adhoc basis till date.

5. Prior to filing of the present writ petition, the petitioner had joined with other similarly situated persons and filed a writ petition, vide C.W.J.C. No. 14092 of 2009. In the said case, the petitioner of the present writ petition was petitioner no. 3. In the said writ petition, no favourable order was passed, however; the Court had expressed no opinion on the merit of the case. Finally, the writ petition stood disposed of on 29-01-2013 by following orders:-

“This application is dismissed for more than one reason, despite various orders, which have been recorded earlier on the contention of the counsel for the petitioners. One, that there are too



many petitioners, who do not even belong to the same college, having been engaged by the so- called constituent colleges spread across the erstwhile district of Bhojpur, which comes under now what is known as Veer Kunwar Singh University. Since there will be separate set of facts related to each individual, the manner in which he or she was appointed, different period of claim for payment etc. and all those colleges will have to be also individually made party, this hotchpotch of pleading does not enthuse this Court to pass any general directive. If the petitioners are interested in pursuing their right, if at all they have one, they should file individual writ application before the Court for assertion of their right.

This is the reason why the Court has not expressed any opinion on the merit of the claim of these petitioners in this writ application.”

6. Even though, while not interfering with the earlier writ petition, this Court had observed that if petitioners are interested in pursuing their right, they should file individual writ petition. The said order was passed on 29-01-2013, whereas, the present writ petition was filed on 05-01-2015 i.e. almost after about two years. With the writ petition, the petitioner has brought on record number of documents, including orders passed by the Hon'ble Supreme Court. On going through the record, particularly the judgment of the Apex Court dated 18th May, 2007 passed in Civil Appeal Nos. 1601-1602 of 2004, it is evident that almost similar dispute was earlier repeatedly raised and



finally, the matter was set at rest. A copy of the judgment of the Apex Court dated 18th May, 2007 has been brought on record, vide **Annexure - 15** to the present writ petition. The Apex Court had noticed in its judgment dated 18th May, 2007 that earlier in 1989 also, almost similar disputes were raised and some orders were passed. The Hon'ble Supreme Court, after examining all the facts, dismissed the appeal, which was filed by Veer Kunwar Singh University Adhoc Teachers Association and Others. In the said proceeding, petitioner was also one of the party. This fact was not disputed by learned counsel for the petitioner. It would be appropriate to quote the concluding paragraph of the judgment of the Apex Court, which is quoted hereinbelow:-

“46. We, therefore, are of the opinion that the interest of justice would be subserved if it is directed that the respondents herein in filling up of the vacant posts must take into consideration the cases of all those teachers also who have the requisite qualifications, upon relaxation of age, if permissible by law along with other eligible candidates. ***We may, however, direct that it would be open to the State of Bihar as also the concerned Universities to forthwith terminate the services of those teachers not working against sanctioned posts or who do not fulfill the requisite educational qualifications or whose services are otherwise not required.***”

7. Even in the present writ petition, the relief, which has been sought for, appears to be not sustainable in the eye of law. In



paragraph – 1 of the writ petition i.e. virtually prayer portion without disclosing the date of initial claim of salary, the petitioner has prayed for making payment till May, 1990. Same relief has been reiterated in the concluding portion of the writ petition.

8. On going through the materials on record as well as the judgment of the Apex Court, in which, the petitioner was also one of the party, the Court is of the opinion that since matter has finally been set at rest by the Apex Court, there is no reason to entertain a writ petition with vague statement and vague relief.

9. The writ petition stands dismissed.

(Rakesh Kumar, J.)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	31.01.2017
Transmission Date	N/A

