

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2225 of 2018

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Neena Verma, Wife of Sri Akhileshwar Kumar, Resident of Flat No.- 307, Dream Jewal Apartment, Block- B, R.K.Puram, Saguna- Khagaul Road, Danapur, P.S.- Danapur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. Patna University, Patna through its Registrar, Patna.
4. The Vice Chancellor, Patna University, Patna.
5. The Registrar, Patna University, Patna.
6. The Director, Higher Education, Education Department, Government of Bihar, Patna.
7. The Principal, Patna Women's College, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gajendra Kumar Jha and Mr. Sushil Kumar Jha, Advocates
For the Patna University	:	Mr. Manish Dhari Singh, Advocate
For the State	:	Mr. Prabhakar Jha, G.P. 27

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 27-03-2018

Heard learned counsel for the petitioner; State and Patna

University (hereinafter referred to as the 'University').

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

“1. That, this writ application is being filed in the nature of mandamus or any other appropriate writ/writs, order/orders, direction/directions for commanding the respondents to release the post retrial benefits payable to the petitioner including pension, gratuity, encashment of unutilized leave and also the amount of payable under Group Insurance Scheme as the petitioner has already superannuated from her regular service on 30.9.17 after almost 37 years of unblemished service record



on a post.

This writ application is also being filed for other reliefs as well.

The petitioner joined the post of Lab-in-Charge in the Department of Psychology in Patna Womens' College, Patna in the month of August 1980 in pay scale of Rs. 340-490/- with the benefits of pay revision time to time. The petitioner re-designated as Demonstrator from the date of her appointment since the petitioner has post Graduate degree from the date of her appointment and has been awarded Doctor of Philosophy by the University itself.

The petitioner superannuated from her regular service on 30.9.17 at the stagnated pay scale of Rs. 9300-34800/- with GP Rs. 4200/-. Even after lapse of four months, the University has yet granted the petitioner even provisional pension causing acute hardship to maintain her life.

2. That, the petitioner seeks indulgence of the Hon'ble court for the following reliefs:-

i. The respondents be directed to release the post retrial benefits payable to the petitioner including pension, gratuity, encashment of unutilized leave and also the amount of payable under Group Insurance Scheme.

II. The respondents be directed to start provisional pension forthwith till finalization of the entire post retrial benefits dues.

III. The respondents be directed to pay interest on the payable amount under different heads till the date of its actual payment.

IV. The petitioner be extended any other relief/reliefs for which she found entitled."

3. The University has been resisted the claim of the petitioner only on the ground that she was not appointed on a sanctioned post.

4. Learned counsel for the petitioner submitted that



though initially she was appointed as a Lab Assistant, later on she was re-designated as Demonstrator by the University. Thereafter, an amendment was brought in the year 2012 in the Patna University Act by which Demonstrator and Lab Assistant were taken out from the definition of 'Teacher', which was challenged by various persons before this Court and the amendment was upheld and the matter travelled to the Hon'ble Supreme Court which though upheld the amendment, but had given protection to the persons already working as Demonstrators and it was directed that if any Lab Assistant has been given designation of Demonstrator which he continues to hold till date will not be withdrawn. Learned counsel submitted that the petitioner is covered by the said direction of the Hon'ble Supreme Court. Learned counsel further submitted that even the issue of appointment of Lab Incharge on unsanctioned post is no more *res integra* as the same has been decided in the case of the present petitioner itself by judgment dated 25.10.2011 reported as **2012(1) PLJR 12 (Neena Verma vs. Patna University)**. Learned counsel further submitted that the wife of an identically situated person claiming the same relief had moved the Court and a co-ordinate Bench by judgment dated 10.05.2017 in C.W.J.C. No. 18397 of 2016 in the case of **Sandhya Akhauri vs. The Vice Chancellor, Patna University and Ors.**, had held that the entire length of service of a



deceased husband right from the time he was appointed as Lab Incharge would be counted for payment of death-cum-retiral benefits to her. It was submitted that the aforesaid two orders of the Court have been implemented by the University and have also attained finality.

5. Learned counsel for the State submitted that it is for the University to take a call with regard to payment and the State from time to time has released sufficient funds for payment.

6. On a specific query of the Court to learned counsel for the University as to whether the case of the petitioner stands covered by a decision of the Court in the case of **Sandhya Akhauri** (supra), the answer is in the affirmative.

7. Having regard to the aforesaid, the Court finds no reason to take a different view and accordingly, the writ petition stands allowed in terms of the judgment dated 10.05.2017 passed in the case of **Sandhya Akhauri** (supra). The respondents are directed to pay the petitioner the entire retiral benefits taking into consideration the period of her service from the day she was appointed on the post of Lab Assistant. The same shall be paid expeditiously and latest within three months from the date of receipt/production of a copy of this order before the respondent no. 5. Failure to do so shall entitle the petitioner to 8% simple interest per



annum on the dues to be reckoned after expiry of the aforesaid three months. It is clarified that the dues under various heads shall be paid along with statutory interest.

(Ahsanuddin Amanullah, J.)

P. Kumar

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