

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 6838 of 2017

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Dharmeshwar Mishra, Son of Late Rajendra Mishra, permanent resident of Mohalla- Balbhadrapur, Police Station- Laheriasarai, District- Darbhanga. At present residing at 302, Badri Mansion, Post Office Road, Shastrinagar, Patna- 23.

.... Petitioner/s

Versus

1. The Vice Chancellor, L. N. Mithila University, Darbhanga.
2. The Lalit Narayan Mithila University, Darbhanga, P.O.- Lalbagh, Darbhanga through its Registrar.
3. Principal, C.M. Law College, Darbhanga, West Harahi Tank, P.O.- Lalbagh, Darbhanga, District- Darbhanga.
4. The State of Bihar through the Principal Secretary, Human Resources Department, Vikas Bhawan, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amarendra Narayan and Mr. Sanjay Kumar Srivastava, Advocates
For the State	:	Mr. Prabhakar Jha, G.P. 27
For the L.M.N.U.	:	Ms. Archana Palkar Khopde, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 18-04-2018

Heard learned counsel for the petitioner; State and L.N.

Mithila University.

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

“(i) For order or orders, direction, declaration and issuance of appropriate writ in the nature of certiorari quashing the letter no. LC-99/17 dated 27.03.2017 issued by the respondent University (Annexure-14A) by which and under



which the representation of the petitioner dated 16.01.2017 for payment of the arrear of amount of half/proportionate pay scale including proportionate increments, dearness allowance and other permissible benefits for period from 2002 to March, 2009 during which the petitioner has rendered his services as permanent part time lecturer and Professor-in-Charge in C.M. Law College, Darbhanga, a constituent unit of respondent University has been arbitrarily, illegally and erroneously rejected.

(ii) For order/orders, direction, declaration and issuance of appropriate writ in the nature of mandamus commanding the respondents to make payment to the petitioner as prescribed by the Statute the arrear amount of the proportionate pay scale including proportionate increments, dearness allowance and other permissible benefits, for the period from July, 2002 to March, 2009, as per calculation chart (Annexure-12) which comes to Rs. 395473/- during which the petitioner has rendered his services as permanent part time lecturer in C.M. Law College, Darbhanga a constituent unit of L.N. Mithila University, Darbhanga.

(iii) For order and declaration that action of the respondents in the matter is malafide and discriminative as the proportionate pay scale including proportionate increments, dearness allowance and other permissible allowances are already being paid to other part time teachers who are much junior to the petitioner.

(iv) For order and declaration that impugned order of the respondent University is arbitrary, malafide and discriminatory.

(v) For order and direction to the respondent University to make payment of the claimed amount with 9% interest thereon.

(vi) For any other order or orders as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case."

3. On 16.03.2018, the Court had recorded the



following:

“2. The petitioner claims a benefit of the statute issued under Letter No. BSU 8/2005-1614/GST dated 29.06.2005, to claim benefit of proportionate salary of the scale including proportionate increment, dearness allowance and other permissible benefits.

3. The stand of the State and the University is that the petitioner did not possess the qualification prescribed by the U.G.C., which is a pre-requisite for the benefit of the aforesaid statute to be given to him and was appointed much prior in the year 1984 only on the basis of possessing L.L.B. degree, whereas the U.G.C. prescribes minimum L.L.M. qualification for such engagement.

4. Faced with the situation, learned counsel for the petitioner submitted that a short adjournment be given to seek further instructions on the point.

5. Accordingly, as prayed for by learned counsel for the petitioner, the matter be listed on 20th March, 2018.”

4. Today, learned counsel has tried to canvass the point that because the Bar Council Rules permit a part time Lecturer to possess only L.L.B. degree, which the petitioner possesses, the requirement of the U.G.C. qualification of having minimum L.L.M. degree for being appointed even as part-time Lecturer in the Law college cannot be enforced. The Court is unable to appreciate the submission of learned counsel for the petitioner for the reason that he is seeking revision of his pay on the basis of what has been granted by the U.G.C. and accepted by the State Government, unmindful of the fact that his pay has not been reduced and merely enhancement/



revision has been denied on the ground that U.G.C. itself has clarified that such revision would be of teachers, including part-time teachers, only for those persons who possess the minimum qualification as prescribed by the U.G.C. Learned counsel for the petitioner has not been able to show to the Court that the U.G.C. has approved the qualification of L.L.B. for a part-time Lecturer of Law. As the revision of pay is a benefit granted by a conscious decision of the U.G.C., followed by acceptance by the State Government, the Court cannot substitute its views or direct for payment to any group which is excluded from such benefit under the policy of the U.G.C./ State Government. At the cost of repetition, nothing has been shown to the Court that as L.L.B. is the minimum qualification for regular teachers of law also prescribed by the U.G.C., the Court is unable to interfere in the matter.

5. The benefit can only be granted in accordance with law, and that too, in terms of the pay master accepting and granting such benefit. The role of the Court is extremely limited in such matter as it is for the pay master to decide the pay it will give to its employee. Once the said basic fact is kept in mind, the present case not being where after revision, scale/salary of the petitioner has been reduced and rather enhancement has been denied, that too, on cogent grounds and based on the qualification prescribed by the U.G.C. which the



State Government has also accepted, the stand of the authorities cannot be faulted.

6. In view thereof, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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