

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18822 of 2010

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1. Bibi Kharunissha wife of Late Md. Kalimuddin
 2. Md. Mustafa son of Late Md. Kalimuddin
 3. Md. Akhtar son of Late Md. Kalimuddin
 4. Md. Murtaza son of Late Md. Kalimuddin All are resident of village- Koilakh, P.O.- Koilakh, Via- Rampatti, P.S.- Raj Nagar, District- Madhubani
 5. Shamina Khatoon daughter of Late Md. Kalimuddin and wife of Md. Sabir, resident of village- Partapur, P.O.- Moktapur, District- Samastipur

... .. Petitioner/s

Versus

1. The State Of Bihar Through Its Secretary-Cum-Commissioner Hrd Department, New Secretariat, Patna
2. L.N. Mithila University, Kameshwar Nagar, Darbhanga Through Its V.C.
3. Vice-Chancellor L.N. Mithila University, Kameshwar Nagar, Darbhanga, Through Its Vice-Chancellor
4. The Registrar, L.N. Mithila University, Kameshwar Nagar, Darbhanga
5. Finance Officer L.N. Mithila University, Kameshwar Nagar, Darbhanga
6. The Principal, M.K. College, Darbhanga
7. Sri Lal Mohan Mishra S/O Not Known Posted And Working As Clerk, M.K. College, Darbhanga

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ramesh Chandra Sinha, Advocate Mr. S.C. Pandey, Advocate
For the University	:	Mr. Chandra Mohan Singh, Advocate Smt. Sima Siddique, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 12-07-2018

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the University.

2. Initially, the writ petition was filed by the original writ petitioner, Md. Kalimuddin, for a direction to the respondents to grant pay scale of Head Clerk-cum- Accountant of the College in question. Subsequently, the original writ petitioner died and his widow and other heirs and legal representatives were substituted in



his place. Many facts stated in the writ petition are not relevant for deciding the present writ petition and as such in order to decide the present writ petition only relevant facts are enumerated hereinafter.

3. Initially, the original writ petitioner was appointed as Peon-cum-Clerk and subsequently he was upgraded as U.D. Assistant. There was some dispute with regard to the original petitioner and one Chandra Kant Thakur as to the post of Accountant. From memo no. 4662-64 dated 02.05.1983, it appears that the Principal of the college was communicated with the decision of the Vice-Chancellor, whereby the original petitioner was designated as Accountant of the College. The original petitioner was also granted pay scale of U.D. Assistant. From Annexure-12, it appears that the original petitioner was recognized as Accountant and request was made by the Principal of the College for release of fund for payment of difference of salary from March, 2010 to May, 2010 for payment of the original petitioner as Accountant.

4. Learned counsel for the petitioners submits that the original petitioner was not granted the benefit of ACP/MACP.

5. Without going into the controversy whether the original petitioner was entitled to payment of ACP/MACP, in the present fact situation, the original petitioner was granted



upgradation from Peon to Clerk and thereafter U.D. Assistant and Accountant, the issue is to be examined by the University and if ACP/MACP Rule permits upgradation of pay scale, the University may take final decision on the claim of the original petitioner for upgradation under the ACP/MACP Scheme.

6. So far as the payment of arrears treating the original petitioner as Accountant is concerned, the University has recognized him as Accountant and as such the University is required to ensure payment of difference of salary to the original petitioner as Accountant. Monetary benefits in this regard must be paid to the successor petitioners within a maximum period of four months from the date of receipt/production of a copy of this order. During the same period, the University will examine the claim for grant of ACP/MACP, if otherwise, admissible and ensure benefit of the same, if available, within the time as indicated hereinabove.

7. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.07.2018
Transmission Date	

