

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10230 of 2015

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Surendra Prasad Srivastava, son of Late Jai Jai Prasad Resident of Janta Chowk, Maharaja Hatta, P.O., P.S. and District- Purnea, retired Head Clerk, Purnea College, Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Higher Education, Government of Bihar, Patna.
4. The Bhupendra Narain Mandal University, Madhepura, through the Vice Chancellor.
5. The Vice Chancellor, The Bhupendra Narain Mandal University, Madhepura.
6. The Registrar, The Bhupendra Narain Mandal University, Madhepura.
7. The Finance Officer, The Bhupendra Narain Mandal University, Madhepura.
8. The Principal, Purnea College, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Advocate
For the State	:	Mr. Umesh Kumar Roy, AC to GP 11
For the University	:	Mr. Shashi Bhushan, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 03-12-2018 Dispute as to payment of arrears of salary is the subject matter of the writ petition. The petitioner is claiming arrears of salary for the period from May, 1983 to October, 1985 and for the period from 1986 to 1994 he claims that he should be paid balance amount after deducting the amount already paid to him.

The aforesaid issue involves verification of records at the level of the respondents and as such the University is required to take appropriate decision particularly in view of the stand taken by the respondent-State in the counter affidavit that



difference of arrears is required to be decided appropriately by the University as the University is the custodian of the records. The relevant part of the statements of the respondents is in paras 7 to 11 of the counter affidavit which are quoted below:

“7. That it is stated that there is a statute which is commonly known as Service Statutes of the University which is applicable to all such persons who are in the service of the University. Under the service statute of the University all powers with regard to grant of leave, promotion, termination of service, suspension, resignation and dismissal, superannuation, disciplinary actions, fixation and regulation of pay has been vested with the University.

8. That in this connection it is further stated that promotion of the employee of the University is done by the Statutory Committee, appointed by the University for the purpose.

9. That the petitioner stated to have been appointed in the year 1950 on the post of Clerk. The petitioner thereafter was promoted to the post of Head Clerk by the then L.N.Mithila University and had retired from the said post on 31.05.1994. The petitioner on the basis of calculation (Annexure-4 of the writ application), made by the Collector in the year 2006, is making claim of payment of arrears of difference of salary from the year 1983 to 1994, without explaining the delay in raising such belated claim, after a lapse of more than 16 years.

10. That this Hon'ble Court vide order dated 27.07.2015 has been pleased to direct that: 'Let a counter affidavit be filed by the respondents firstly, explaining as to whether the promotion of the petitioner given on 21.04.1984 was in accordance with law and secondly, whether such promotion was allowed to be stand in all these periods so that ultimately its benefit could be given 31.03.2015.'

11. That in this connection, it is humbly stated that the University can only explain as to whether the promotion of the petitioner given on 21.04.1984 was in



accordance with law and secondly, whether such promotion was allowed to stand in all these periods so that ultimately its benefit could be given on 31.03.2015.”

In view of the discussions above and the stand taken by the respondent-State, the University is directed to take appropriate decision with regard to payment of arrears within a period of two months from the date of receipt/production of a copy of this order and after such calculation by the University, the respondent State as well as the University are required to ensure payment of arrears to the petitioner within a further two months.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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