

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 10937 of 2018

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Ram Prasad Mishra, Son of Late Brij Nandan Mishra, Resident of Mohalla- A/108
Pepuls Copretive Colony P.S. Kankarbagh Patna- 800020.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary/Commissioner, Department of Education, Government of Bihar, Patna.
2. The Secretary, Finance Department, Government of Bihar, Patna.
3. The Vice Chancellor, Patna University, Ashok Raj Path, Patna.
4. The Registrar, Patna University, Ashok Raj Path, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 24-09-2018

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
relief:

*“That this writ petition is being
filed for direction to the concerned
authority i.e. the Respondent no. 3 to
determine and revise the pension of the
petitioner w.e.f. 1.1.1986 as per order
dated 06.11.2012 (Annexure-2) passed by
Respondent no. 3 with interest.”*

3. From the counter affidavit filed on behalf of the
University, the stand is that the benefit given to the Section Officer
in terms of the Notification No. 1547 dated 06.11.2012 relating to
scale of pay of Section Officer of the University, by which it was



made effective from 01.01.1986 in light of the order of the Hon'ble Supreme Court in Civil Appeal No. 826 of 2002 and of the High Court in M.J.C. No. 1044 of 1996, the University has come with a revised notification by which the benefit has been granted with effect from 01.01.1996.

4. Further, the State Government by resolution contained in Memo No. 898 dated 07.06.2007 had granted the scale with effect from 01.01.1996. From the order of the Hon'ble Supreme Court in Civil Appeal No. 826 of 2002 dated 17.07.2008, it transpires that when the Hon'ble Court has taken note of the fact that the post of Section Officer and Typist of the University and State of Bihar have been made equal and further when this position was agreed upon by learned counsel for the Patna University and the appellant, the appeal was dismissed as having become infructuous. Thus, the Court finds that the dismissal by the Hon'ble Supreme Court dated 17.07.2008, obviously was more than a year after the resolution of the State dated 07.06.2007, according to it, the scale was made admissible with effect from 01.01.1996. Moreover, in the counter affidavit the University has categorically taken a stand that the benefit of the pay scale of Rs. 6,500/- to 10,500/- has been granted to the petitioner with effect from 01.01.1996.

5. In view thereof, the Court finds that whatever was



due to the petitioner has been granted to him and reliance cannot be placed on the notification dated 06.11.2012, for the reason that in view of the aforesaid background, the University has also now formally withdrawn the said notification by a fresh notification contained in Memo No. 1250 dated 30.07.2018.

6. Accordingly, the writ petition stands disposed off.

7. Before parting, the Court is required to take note of the fact that by order dated 04.09.2018, there was specific direction to learned counsel for the State to file specific affidavit relating to the time frame i.e., by when the committee has been asked to submit its report and thereafter by when the State Government would take a decision on the same, and the matter was directed to be listed today. Though a supplementary counter affidavit has been filed, it has been stated that after approval of the Finance Department, a Committee shall be constituted. The Court finds this to be contemptuous for the reason that in the earlier affidavit filed on 31.08.2018, it has been stated at paragraph no. 19 that formation of Committee for submitting report on proposed benefits to be extended to the University employees according to UGC approved 7th Pay structure is in process and the said Committee will submit its report and then the Government will take a decision. However, in the affidavit, filed today, it has been stated at Paragraph No. 3 that after getting



approval from the Finance Department and competent authority, the Committee will be constituted to consider such implementation. Thus, the two stands taken are contrary to each other, despite the fact that it has been affirmed by the same person, who is Deputy Secretary of the Education Department, Government of Bihar, Patna. The Court finds that such position on oath, which is contradictory, equally amounts to misleading the Court.

8. In view thereof, the Court directs the Principal Secretary, Department of Education, Government of Bihar to fix responsibility on the officers, who are responsible for stating contrary and misleading facts before the Court and then proceed against them for such conduct, in accordance with law.

9. Learned counsel for the State shall communicate the order to the Principal Secretary, Department of Education, Government of Bihar for compliance.

(Ahsanuddin Amanullah, J.)

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