

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16458 of 2015

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1. Rajendra Patel, Son of Late Bhagwan Singh, Resident of Mohalla- Sikandarpur, P.S. Muzaffarpur Town, District- Muzaffarpur, the retired Composer, B.R.A. Bihar University, Muzaffarpur
 2. Jalaluddin Akbar, son of Late Abid Majid, Resident of Mohalla- Mandai, Dargah Road, P.O. Mahendru, P.S.- Sultanganj, District- Patna, the retired Composer, B.R.A. Bihar University, Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna
2. The Principal Secretary, Finance Department, Government of Bihar, Patna
3. The Director, Higher Education, Education Department, Government of Bihar, Patna
4. The State Auditor, Government of Bihar, Patna Deputed at Baba Saheb Bhim Rao Ambedkar, Bihar University, Muzaffarpur
5. The Vice Chancellor, Baba Saheb Bhim Rao Ambedkar, Bihar University, Muzaffarpur
6. The Registrar, Baba Saheb Bhim Rao Ambedkar, Bihar University, Muzaffarpur
7. The Finance Officer, Baba Saheb Bhim Rao Ambedkar, Bihar University, Muzaffarpur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Advocate
For the State	:	Mr. A. Ujjwal, SC 25
For the University	:	Mr. Rakesh Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 03-12-2018

Heard learned counsel for the petitioners, learned counsel appearing for the State and learned counsel representing the University.

Petitioners have filed the present writ petition for a direction to quash the order dated 20.06.2015 (Annexure-17)



whereby the claim of the petitioners as to the higher pay scale has been rejected. The petitioners had earlier filed CWJC No. 13855 of 2014 which was disposed of on 22.08.2014. The writ court directed the Director, Higher Education to consider the representation of the petitioners and decide about their pay fixation and pass appropriate orders in accordance with law on the representation of the petitioners within three months.

On 26.02.2015 the Director, Higher Education rejected the representation and the submission of the University as well as the petitioners in support of entitlement of the pay scale. While rejecting the claim it was observed by the Director that if the petitioners have any grievance on pay revision, for redressal of their grievance the petitioners may approach the competent authority by filing representation.

From perusal of the order which is challenged in the instant case, it appears that the Director, Higher Education has instead of finally deciding the representation has observed that the petitioners had to approach the competent authority by filing representation. Such evasive decision on the representation after the order of the High Court appears to be apologetic and casual approach of the Director, Higher Education.



From the materials available on record and the stand taken by the petitioners and the respondent University it is evident that the University has granted pay scale in terms of the statute and after superannuation of the petitioners on 31.10.2011 and 30.06.2012, respectively, the Auditor of the State Government raised objection as to pay fixation of the petitioners. This Court has held out in numerous occasion that the State Auditor has no jurisdiction in the matter of pay fixation of the employees of the University as there exists Statutory Pay Fixation Committee under the University statute for pay fixation and the action taken at the instance of the State Auditor in the instant case appears to be totally without jurisdiction. The decision taken by the Director, Higher Education after superannuation of the petitioners cannot sustain as the relationship of master and servant came to an end and further the Auditor of the State Government has no jurisdiction in the matter of pay fixation of the employees of the University.

For the aforesaid two reasons and also for the added reason that the Director, Higher Education has observed that in case the petitioners have any grievance they may approach the competent authority for redressal of their grievance despite the direction of this Court to finally decide the representation, is unsustainable and accordingly Annexure-17 is hereby quashed.



The respondents are directed to act upon the office order contained in Memo No. B/1273 dated 1108.2015 which was issued by the University in the light of the notification of the Governor's Secretariat dated 04.03.2014 and on the recommendation of the Statutory Committee. Necessary follow-up decision in this regard would be taken by the respondent-University and the State within a period of three months from the date of receipt/production of a copy of this order. It is made clear that the State is obliged to approve such pay scale which was approved by the University in terms of the order of the Chancellor.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
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