

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22315 of 2014

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Jai Chandra Jha Son of Late Nand Lal Jha Resident of Mohalla Near Chakdah
Gumti Ward No-19 Station Road, Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary (Higher Education) Department of Education,
Government of Bihar, Patna.
3. The Secretary (Higher Education), Department of Education, Government of
Bihar, Patna.
4. The Director (Higher Education), Department of Education , Government of
Bihar, Patna.
5. The Deputy Director, (Higher Education), Department of Education,
Government of Bihar, Patna.
6. Lalit Narayan Mithila University, through its Registrar, Darbhanga District -
Darbhanga.
7. The Vice Chancellor, Lalit Narayan Mithila University Darbhanga, District -
Darbhanga.
8. The Registrar, Lalit Narayan Mithila University, Darbhanga, District -
Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Subodh Kumar Jha, Advocate
For the State	:	Mr. Pushpanjali Sharma, AC to SC-20
For the University	:	Ms. Alka Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 09-10-2018

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

2. The grievance of the petitioner in the present writ
petition is denial of revised pay scale on promotion as Assistant
Registrar.

3. The petitioner was getting pay scale of Rs. 6500-
10500 with effect from 1.1.1996 as Section Officer. He was
promoted as Assistant Registrar with effect from 1.1.1981 but he



could not get the revised pay scale. From Annexure-10 it appears that plea was taken by the University that the State Government has the competence to revise the pay scale in view of the rider of proviso to Section 35 of the Bihar State Universities Act. The respondents have rejected the claim for grant of pay scale of Deputy Registrar because the petitioner has only worked for a period of one year as Deputy Registrar on officiating basis.

4. Mr. Subodh Kumar Jha, learned counsel for the petitioner submits that on grant of promotion from Section Officer to Assistant Registrar the petitioner is entitled to grant of revised pay scale otherwise the promotion becomes illusory. The post of Assistant Registrar is higher in hierarchy than the post of Section Officer and it is promotional post. Once it is accepted that the post of Assistant Registrar is higher in hierarchy and promotional post it flows as a matter of corollary that the petitioner, on grant of promotion to the post of Assistant Registrar, is entitled to higher pay scale than the pay scale of Section Officer. It would be ridiculous situation where the person on grant of promotion is paid the pay scale at par with the Section Officer or even denied the benefit of revised pay scale of Section Officer. The petitioner was granted promotion as Assistant Registrar with effect from 1.1.1981 and as such he is entitled to the benefit of pay scale admissible to



the post of Assistant Registrar with effect from 1.1.1981 and the benefit of revised pay scale with effect from 1.1.1996. If the benefit of revised pay scale higher than the pay scale given to the Section Officer is not extended to the petitioner then the promotion as Assistant Registrar is only illusory.

5. Sanction of post and pay is precisely within the domain of the State and the State is required to exercise such power in a reasonable manner so that there cannot be heart burning. The Court cannot approve inaction on the part of the State Government in not enhancing the pay scale of Assistant Registrar to make the promotional post of Assistant Registrar as real promotion not only for status but the pay scale attached to the promotional post or higher post should be reflected in the pay scale admissible to the employee holding the post of Section Officer and Assistant Registrar.

6. Considering the aforesaid, the Court is constrained to hold that the respondents are obliged to revise the pay scale commensurate with the status of the petitioner as Assistant Registrar and in any view of the matter higher than the pay scale admissible to the Section Officer pre and post revised. The University and the State will take appropriate corrective measures within a maximum period of four months from the date of



receipt/production of a copy of this order and ensure payment of arrears within a further period of two months.

With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.10.2018
Transmission Date	

