

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11669 of 2011

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Dr.Abdus Samad, son of Late Md. Shibli Pol Scince, Oriental College, Patna City,
Patna.

.... Petitioner/s

Versus

1. The Magadh University through its Registrar, Bodh Gaya, Gaya.
2. The Vice Chancellor, Magadh University Bodh Gaya, Gaya
3. The Registrar, Magadh University, Bodh Gaya, Gaya.
4. The Pay Fixation Committee through Finance Officer, Magadh University,
Bodh Gaya, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. Dr. Kumar Amitesh Chandra, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 04-07-2018

This writ application has been filed by the petitioner in 2001 raising a grievance that despite he was granted promotion as University Professor under Merit Promotion Scheme vide Memo dated 13.04.2010 w.e.f. 09.01.1997, the University has not granted the pay scale admissible to the University Professor.

2. From the order-sheet, it appears that on 14.05.2014, no one appeared on behalf of the petitioner. Further order-sheet indicates that on behalf of University, counsel vigilantly prosecuted the case, but no one made submission on behalf of the petitioner.

3. The order dated 08.04.2016 indicates that due to non-prosecution, the writ was dismissed, however, the same was



restored vide order dated 10.08.2016 passed in M.J.C. No. 1930 of 2016.

4. On 20.10.2016, a prayer was made for adjournment of the case to place on record certain development that has taken place during the Pendency of the writ application. Thereafter, no application was filed in terms of order dated 20.10.2016.

5. On 31.01.2017, one week further time was granted to the petitioner. On 13.02.2017, this Court has allowed I.A. No. 783 of 2017 and permitted the petitioner to amend the prayer in the main writ application challenging the order, as contained in Memo no. 54 dated 15.03.2016, whereby promotion granted to the petitioner has been withdrawn, but the amendment allowed in terms of I.A. No. 783 of 2017 was not carried out.

6. This Court has granted indulgence to the University as well as the petitioner on different occasions and finally Yesterday the Court directed that this case be listed under the heading “For Dismissal” so that petitioner may avail more opportunity to assist the Court.

7. Even today, no one has appeared on behalf of the petitioner. Under the aforesaid circumstances, the Court has to believe that the petitioner, who was 59 years of age on the date of filing of the writ application in 2011, has crossed the age of superannuation and as



such the petitioner is not interested in pursuing this writ application.

8. However, in view of the fact that the order granting promotion has already been withdrawn by the University pursuant to the decision of the HRD Department, as contained in Letter No. 1044 dated 07.08.1989 and as approved by the office of the Hon’ble Chancellor dated 23.09.1995, the Court is of the view that the main prayer for grant of the pay scale of the University Professor is now become academic. Unless the order withdrawing the promotion granted to the petitioner is set aside, the petitioner cannot be granted the benefit of pay scale of University Professor.

9. In view of the above, the writ application is dismissed with liberty to the petitioner to challenge the Officer order withdrawing the promotion granted to the petitioner vide Memo no.54 dated 15.03.2016 before the appropriate Forum/Court, if the petitioner is so advised.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.07.2018
Transmission Date	

