

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 6525 of 2007

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Syed Aquil Hasan Akbari, Son of Late Syed Haider Hasan Akbari, resident of Mohalla Pali Colony, Mogalpura, Police Station- Khajekalan, District- Patna.

.... Petitioner/s

Versus

1. The Chancellor of the Universities of Bihar, Governor's Secretariat, Patna.
2. The Vice Chancellor, Patna University, Ashok Raj Path, Patna.
3. The Registrar, Patna University, Ashok Rajpath, Patna.
4. The Finance Officer, Patna University, Ashok Rajpath, Patna.
5. The Officer on Special Duty (Judicial) Governor's Secretariate Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Aditya Narain Singh and Mr. Kundan Kumar Sinha, Advocates
For the Patna University	:	Mr. Md. Nadim Seraj, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 27-03-2018

Heard Mr. Aditya Narain Singh, learned counsel along with Mr. Kundan Kumar Sinha, learned counsel for the petitioner and Mr. Nadim Seraj, learned counsel for the Patna University (hereinafter referred to as the 'University').

2. Pursuant to order dated 13.03.2018, the Registrar and Finance Officer of the University are also present. Supplementary affidavit has been filed on behalf of respondents no. 3 and 4.

3. The petitioner has moved the Court for the following reliefs:

“That this is an application for issuance of a writ in the nature of certiorari for quashing of the order passed by the Hon'ble Chancellor of the Universities of Bihar, which was communicated through Memo No. P.U.-7/2006-1229/GS(I) dated 18.4.2007 under the signature of office on Special



Duty (Judicial), whereby and where under the Hon'ble Chancellor, has rejected the prayer of the petitioner for his placement in a pay scale of Rs. 5500-9000/- w.e.f. 26.2.2000 the date on which the junior's to the petitioner were granted the pay scale of Rs. 5500-9000/- (Pay Scale of Section Officer).

And it is further prayed that a writ in the nature of Mandamus may kindly be issued to the Respondent University for placing the petitioner in a pay scale of Rs. 5500-9000/- the date on which the juniors to this petitioner were granted such pay scale and accordingly differences of salary and Fixation of pension on that particular pay scale be granted to this petitioner."

4. The writ petition has been filed in May, 2007 and was admitted for hearing on 28.07.2010.

5. Initially, the University had disallowed the claim of the petitioner for grant of the higher pay scale which forced the petitioner to move before the Hon'ble Chancellor of the University who upheld the order of the University leading to the petitioner moving this Court in the present writ application assailing the said order dated 18.04.2007.

6. The University was contesting the issue taking a stand that the claim of the petitioner was not tenable. However, the stand today in the counter affidavit is that after having considered the matter, the petitioner has been granted the revised scale of Rs. 5500-9000/- and thereupon the pay of the petitioner has been fixed by granting him 1st and 2nd benefit of A.C.P. It has further been stated,



along with copies of supporting documents, that notification granting him such benefit has already been issued on 23.03.2018.

7. Learned counsel for the petitioner submitted that an order has been passed in the file but the petitioner having crossed the age of 75 years and having filed this writ petition more than 10 years back needs actual payment which had been denied to him without any just and proper cause. He further submitted that the Court may award interest as finally the University has accepted the claim of the petitioner to his entitlement for a higher pay scale right from the year 1999 i.e., almost two decades back.

8. At this juncture, learned counsel for the University, in the presence of respondents no. 3 and 4, submitted that the actual payment to the petitioner shall also be made by 16th April, 2018.

9. On the point of award of interest, the Court finds the claim to be justified. The view of the Court stands fortified by the decision of the Hon'ble Supreme Court in the case of **D.D. Tewari v. Uttar Haryana Bijli Vitran Nigam Ltd.** reported as **(2014) 8 SCC 894**, where 9% interest has been allowed by the Court on delayed payment of retiral benefits which was paid after about four years of the person superannuating. Thus, by the same analogy, the due of the petitioner while he was still in service and for which he has kept agitating, having been accepted and now to be paid after so many



years, deserves award of interest.

10. For the reasons aforesaid, the writ petition stands disposed off with a direction to the respondents to ensure that the amount which is due and payable to him in terms of the decision taken by the University and brought on record in the affidavit filed today along with 9% interest is paid to the petitioner forthwith. As the officers have been fair in the stand with regard to the time by which they will pay, the Court grants them one further week to make the payment and, thus, the said payment be made latest by 23rd April, 2018.

11. It may be noted that the order has been passed on the basis of commitment made before the Court with regard to payment of the dues within the time frame fixed and, thus, any violation would also amount to breach of undertaking before the Court making the respondents, especially the officers of the University, liable for appropriate proceeding.

12. Personal appearance of the officers stands dispensed with.

(Ahsanuddin Amanullah, J.)

P. Kumar

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