

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.707 of 2012

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RAM GOVIND PRASAD SAH S/O LATE RAGHUBIR SAH R/O
VILLAGE- SAPANPUR, P.S.- UJEARPUR, DISTRICT- SAMASTIPUR

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. THE PRINCIPAL SECRETARY HUMAN RESOURCES DEVELOPMENT
DEPARTMENT, GOVERNMENT OF BIHAR, PATNA
3. THE MAGADH UNIVERSITY THROUGH THE REGISTRAR MAGADH
UNIVERSITY, BODH GAYA
4. THE VICE CHANCELLOR, MAGADH UNIVERSITY, BODH GAYA
5. THE REGISTRAR, MAGADH UNIVERSITY, BODH GAYA
6. THE FINANCE OFFICER, MAGADH UNIVERSITY, BODH GAYA
7. THE PRINCIPAL, RAM KRISHNA DWARIKA COLLEGE DR. RAM
MANOHAR LOHIA NAGAR, PATNA

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramashray Roy
For the Respondent/s : Mr. Rishiraj Sinha Gp19

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

7 05-07-2018 The grievance in the present writ application pertains

fixation of pay scale and recovery pursuant thereto. Learned

counsel for the petitioner submits that case of the petitioner was

considered by Justice S.C. Agarwal Commission and Justice

S.C. Agarwal Commission to its recommendation has identified

the post of the petitioner as Assistant. The name of the petitioner

figures in Annexure-7 which is extract from the report of Justice

S.C. Agarwal Commission. The recommendation of the justice

S.C. Agarwal Commission was accepted by the Apex Court *in*

toto in case of Mahasangh reported in (2005)A SCC page -127.

However, the University was expected to issue notification



granting absorption in terms of Section 4 (1) (14) of Bihar University Act. In the aforesaid circumstance the entitlement of the petitioner for pay fixation is in terms of recommendation of the Justice S.C. Agarwal Commission as assistant. Thus the respondent University is required to workout the entitlement of the petitioner strictly in accordance with recommendation of Justice S.C. Agarwal Commission and petitioner deserve to be absorbed as Assistant and pay scale of Assistant. In the event the petitioner was granted less pay scale than the Assistant then he should be granted pay scale admissible to the Assistant. The University is required to take appropriate decision and any deduction on the basis of reduce pay scale if found contrary to the pay scale admissible to the Assistant would be unsustainable. The respondents are required to workout afresh the entitlement of the pay scale as well as the post retiral benefits as the petitioner has superannuated in 2009. In the event of petitioner pay scale is wrongly reduced the respondents are required to rectify the mistake and restore the pay scale as Assistant and workout the payable pay and post retiral benefits. In the event the determination was erroneous and there is no fraud representation by the petitioner in the matter of pay fixation the respondents are required not to recover the amount



in view of the judgment of writ court in the case of State of Punjab & Ors. Vs. Rafiq Masih etc. 2015 (4) SCC 334. The entire decision in this regard may be taken by the respondents within a maximum period of three months.

In the event no error in the calculation of the entitlement and pay fixation of the petitioner the University is required to give reason for rejecting the claim or in the event the error is noticed by the University the corrective measures may be taken by the respondent within the time frame indicated hereinabove.

(Anil Kumar Upadhyay, J)

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