

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8584 of 2012

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Dr.Uma Choudhary Wife Of Shri Sachidanand Das Resdient Of Hira Niwas,
Behind Hotal Lalita, Boring Canal Road, Patna-1

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Human Resources Department (Higher Education), Neew Secretariat, Patna, Bihar
2. The Director, Higher Education, Human Resources Department, New Secretariat, Patna , Bihar
3. The Director (Administration)-Cum-Deputy Secretary, Education Department, Bihar, Patna
4. The Accountant General, Bihar, Patna
5. The Principal Govt. Women College, Gardanibagh, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. Akash Chaturvedi, AC to SC-11

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 20-11-2018

This writ petition was filed on 30.04.2012. From the order sheet it appears that from the very beginning the petitioner has not bothered to make any effort to assist the Court for disposal of this writ application on merit.

2. On 03.05.2012 the case was adjourned after summer vacation. On 01.09.2017 when after five long years the case was listed, prayer was made by the petitioner for adjournment. Once again on 3.7.2018 at the instance of the petitioner, the case was adjourned. On 10.10.2018 when the case was again listed, prayer was made for listing the case after Durga Puja Holidays. On 29.10.2018 when the case was listed



after Durga Puja Holidays, prayer was made for listing the case after Chhath Pooja Holidays. The case was again listed after Chhath Pooja Holidays but no one appeared to assist the court on behalf of the petitioner.

3. Under the aforesaid circumstances, the case was listed under the heading for 'dismissal' to provide one more opportunity to the petitioner to assist the Court. Unfortunately, even after so much indulgences, no one appeared on behalf of the petitioner to assist the Court.

4. Under the compelling circumstances, the Court is constrained to dispose of the writ petition on the basis of pleading.

5. This writ petition was filed for a direction to the respondents to revise the pay-scale as per revised UGC pay-scale on the ground that after first time bound promotion no promotion avenue was provided to teachers of govt. colleges whereas the teachers regulated by UGC scheme were provided merit promotion/ career advance scheme and they have been promoted to Reader/Associate Professor and further on the post of Professor.

6. The petitioner belongs to Governments Women's College. He was appointed as Lecturer (psychology) and was



placed in Bihar Education Service in 1981. In 1981 Bihar Education Service was declared as ex-cadre and UGC package was extended to the teachers. When the writ petition was filed, the petitioner raised grievance that the petitioner ought to have been granted the benefit of pay-scale of Rs. 1200-420-18300 with effect from 1.1.1996 when such pay-scale was extended to the teachers of the University on implementation of UGC package.

7. On behalf of the State a stand has been taken in the counter affidavit that the petitioner belongs to different service (Government College) and as such UGC package is not admissible as a matter of course.

8. In para-6 to the counter affidavit the following stand has been taken by the respondents which is quoted below for ready reference:-

That the writ petitioner is working in a Government College. The Government stands on entirely different footing than that of the other Colleges of University. The Government College do not have the infrastructure like Universities for promotion avenues and therefore the entire UGC package cannot be implemented like that of in the Universities.

9. It appears from the further stand in the counter



affidavit it appears that the State Government vide order dated 24.8.2012 has revised the pay-scale of Principal of Government College and also designated the Lecturer as Assistant Professor and their pay-scale was also fixed accordingly with effect from 1.1.2006. This position has been accepted by the petitioner in the reply/rejoinder to the counter affidavit but it appears that by way of rejoinder to the counter affidavit they have now introduced a new case which was not pleaded in the writ petition. There is no prayer for amendment of the writ petition.

10. Referring to the case of the petitioner of C.W.J.C. No. 7630 of 2012, a stand was taken in the rejoinder to the counter affidavit that petitioners of C.W.J.C. No. 7630 of 2012 were granted 3rd ACP whereas petitioner has been discriminated.

11. Petitioner has superannuated on 31.8.1987 and if respondents have granted the benefit of ACP to similarly circumstanced others the State is expected to extend similar treatment to its all employees.

12. The main grievance with regard to UGC pay scale with effect from 1.1.2006 has been redressed by the respondents as appears from the counter affidavit.

13. So far as the issue with regard to grant of ACP is



concerned, the scheme of 3rd ACP was introduced by way of MACP Rules which was not in existence at the time when the petitioner superannuated and as such no positive direction can be issued for consideration of the case of the petitioner.

14. In the event, similarly circumstances others have been granted the benefit of ACP and MACP, liberty shall be available to the petitioner to approach the concerned authority of the Education Department who is required to address the issue of discrimination by reason and speaking order within a maximum period of four months from the date of receipt/production of a copy of this order.

15. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.12.2018
Transmission Date	

