

DR. (SMT.) ARTI TRIPATHI WIFE OF SRI RAMESH CHANDRA
MISHRA RESIDENT OF MOHALA PATEL NAGAR PAKRI, P.S. ARA
TOWN, DISTRICT - BHOJPUR, AT PRESENT WORKING AS ADHOC
LECTURER, DEPARTMENT OF POLITICAL SCIENCE M.M. MAHILA
COLLEGE, ARA, BHOJPUR..... Petitioner/s

1. The State Of Bihar Through The Principal Secretary Of The Higher Education Patna Department Government Of Bihar
2. The Hon'ble Chancellor - Cum - Governor State Of Bihar
3. The Principal Secretary (Higher Education Human Resources Department, Government Of Bihar, New Secretariat, Patna, Bihar
4. The Principal Secretary Department Of Finance, Government Of Bihar, Old Secretariat, Bihar, Patna
5. The Vice Chancellor Magadh University, Bodh - Gaya, Gaya, Bihar
6. The Vice Chancellor Veer Kuer Singh University, Mohalla Pakri, Ara Bhojpur
7. The Registrar Veer Kuer Singh University, Ara Bhojpur
8. The Principal M.M. Mahila College, Ara, District - Bhojpur

... .. Respondent/s

For the Petitioner/s : Mr. Anil Kumar Mishra, advocate,
For the Respondent/s : Mr. Kinkar Kumar, advocate
For the Magadh University: Mr. Ritesh Kumar, advocate

6 14-08-2018 1. Heard learned counsel for the petitioner and
counsel appearing on behalf of the State as well as University.

2. The grievance of the petitioner in the instant case
is non-payment of salary to the petitioner for which she has
actually worked. Manifold arguments have been advanced on
behalf of the petitioner referring to the Judgment of the Apex
Court in the case of Uma Devi Vs. Secretary State of Karnataka
reported in 2006 (4) SCC 1 and subsequent judgment of the
Apex Court in the case of M.L. Keshari reported in 2010 (9)



SCC 247.

3. Learned counsel for the petitioner also contended that the petitioner was appointed as lecturer in the college and is regularly working till date and no regular appointment was made against the post of the petitioner and as such the petitioner is entitled to payment of remuneration which was admissible to the petitioner, in terms of the order passed by the Apex Court in Special Leave Petition (Civil No. 11078 of 1989).

4. On behalf of the respondent stand has been taken with reference to Annexure-A the judgment of the Apex Court in case of Veer Kunwar Singh University Ad hoc Teachers Association & Others Vs. The Bihar State University (C.C.) Service Commission & Others that the petitioner is not entitled to regularization.

5. However, the counsel appearing on behalf of the University has not been able to dispute the fact that the petitioner has not been terminated as yet and no regular appointment was made against the post of petitioner. While deciding the issue in the case of Veer Kunwar Singh University Ad hoc Teachers Association & Others (Supra), the Apex Court held out in paragraph 46 as below:-

“We, therefore, are of the opinion that the



interest of justice would be subserved if it is directed that the respondents herein in filling up of the vacant posts must take into consideration the cases of all those teachers also who have requisite qualification, upon relaxation of age, if permissible by law along with other eligible candidates. We may, however, direct that it would be open to the State of Bihar as also the concerned Universities to forthwith terminated the services of those teachers not working against sanctioned posts or who do not fulfill the requisite educational qualifications or whose services are otherwise not required.”

6. In terms of judgment of Apex Court no decision was taken by the State or University at any point of time whether the petitioner was working against the sanctioned post or not, whether the petitioner fulfill the requisite qualification and whether the services of the petitioner is otherwise not required. In view of the fact that there is no order dispensing with the service of the petitioner she is entitled to the payment of remuneration in terms of order passed in Special Leave Petition (Civil No. 11078 of 1989). The respondent have not terminated the service of the petitioner as such they have to



work out the entitlement of the petitioner for payment of remuneration on the line of the payment which was admissible to the petitioner prior in terms of order passed by the Apex Court in Special Leave Petition (Civil No. 11078 of 1989). The petitioner would be entitled to payment until petitioner is replaced by regular teacher appointed in accordance with law or direction of the apex Court in the case of Veer Kunwar Singh University Ad hoc Teachers Association & Others (Supra).

7. Counsel appearing on behalf of the University disputed the fact that the petitioner is not regularly working. This aspect requires factual inquiry by the University on the verification of the record available by the college. If it is found that the petitioner is working or has worked but not paid only then the direction for payment will apply in the case of petitioner.

8. With the aforesaid the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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