

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17884 of 2014

Rita, Wife of late Shree Krishna Prasad, at present residing at Mohallah-
Mainpura Bagicha, P.S. Patliputra, Town and District- Patna

... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Human Resources
Development Department, Bihar, Patna
 2. The Director (Higher Education), Bihar, Patna
 3. The Magadh University through its Vice-Chancellor, Bodh Gaya, Gaya
 4. The Vice-Chancellor, Magadh University, Bodh Gaya, Gaya
 5. The Registrar, Magadh University, Bodh Gaya, Gaya
 6. The Principal, S.U. College, Hilsa, Nalanda ... Respondents
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Appearance :

For the Petitioner : Mr. Subodh Chandra Jha, Adv.
For the Respondents : Mr. Vinay Kirti Singh, GA III with
Mr. Verma, AC to GA III

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH
ORAL JUDGMENT

Date : 05-07-2018

Heard learned counsel for the petitioner; State and
Magadh University (hereinafter referred to as the
“University”).

2. The petitioner had moved the Court for the
following reliefs :

*(i) For issuance of an appropriate writ directing
and commanding the respondents to produce a copy
of the order dated 3-12-2013 (Anx.-14) passed by
the Vice Chancellor, Magadh University, Bodh
Gaya, the respondent no. 4 communicated vide*



letter bearing Ref. No. Legal 82/13 dated 12-12-2013 issued under the signature of the respondent no. 5 by which the claim of the petitioner to revise the Pension of the petitioner after counting the service of the petitioner w.e.f. the date of the appointment of the petitioner, has been rejected and upon such production be further pleased to quash the said order dated 3-12-2013 (Anx.-14).

(ii) For issuance of an appropriate writ for quashing of the order dated 16-10-2012 (Anx.-10) passed by the respondent no. 4 by which the claim of the petitioner for counting his service w.e.f. the date of his appointment for the purpose of calculation of the pension etc. of the petitioner has been rejected.

(iii) For issuance of an appropriate writ directing and commanding the respondents to allow the petitioner to deposit the arrear of his Provide Fund contribution including the contribution of the College with interest for the period between 7-7-1955 to March, 1965 and be further pleased to



direct the respondents to accept the said deposit by the petitioner for the purpose of counting the service of the petitioner w.e.f. the date of his appointment for the purpose of determining the retirement benefits including the pension of the petitioner.

(iv) For issuance of an appropriate writ directing and commanding the respondents to give the petitioner all consequential benefits including payment of arrear of difference of Pension of the petitioner after quashing of the aforesaid orders dated 3-12-2013 and 16-10-2012 as well as after revising the Pension of the petitioner after counting his service w.e.f. the date of appointment of the petitioner.

(v) For issuance of an appropriate writ/direction directing and commanding the respondents to pay the petitioner interest at market rate for the period during which the aforesaid arrear of difference of Pension of the petitioner has not been paid/is not being paid to the petitioner.



(vi) For any other relief or reliefs of which the petitioner is legally entitled to.

3. In the counter affidavit filed on behalf of the University the sole ground for denying the relief, is that the amount of Provident Fund contribution for the period 1955 to 1965 had not been deposited. When the petitioner had gone for depositing the same, the authorities refused to accept the amount only on the ground that on the application praying for such deposit to be accepted, the Finance Officer of the University had given his approval, which was not proper as the file had to be placed before the Financial Advisor.

4. On a query of the Court as to when under the relevant Statute, as a matter of right, a person has been given opportunity to deposit the amount of Provident Fund which may not have been deposited by the employer, there cannot be any question with regard to seeking permission from any authority and under what provision of law the approval, given by the Finance Officer, which itself was meaningless, was required to be given by a higher officer, when no such requirement exists, learned counsel for the University fairly admitted that there is no such provision prescribing any



authority to give any approval for accepting the deposit of Provident Fund contribution which may have been left undeposited by the employer earlier.

5. At this juncture, when the Court called upon Mr. Verma, learned A.C. to G.A. III for the State to assist, he has not been able to do so on the basis of the running pagination of the brief. This has caused unnecessary impediment in a judicial proceeding in the background of the fact that more than ten pleadings are on record and further that in the daily cause list, the Court gets notice printed that the learned counsel should get their brief paginated as per the pagination of the Court's record to facilitate hearing. It is also indicated that failure to do so leading to there being impediment in the smooth functioning of the Court may lead to imposition of the cost. Accordingly, the Court deemed it appropriate to impose cost on the State for such conduct. However, at this juncture, learned G.A. III who had just entered the Court, submitted that he was tendering apology on behalf of Mr. Verma, his A.C. and prayed that the Court grant indulgence. Since, for such conduct, Mr. Verma, learned A.C. to G.A. III was totally responsible, as it was his duty to ensure that his brief was duly



paginated, the Court accedes to the prayer of the learned G.A. III and refrains from imposing cost.

6. Coming to the merits of the matter, when the Court asked learned counsel for the petitioner that whether he is ready to deposit such contribution as of today, the answer is that whatever is required to be deposited in terms of the law/Statute, the same shall be deposited within one month of its intimation by the University.

7. Having regard to the aforesaid, the writ petition stands disposed off holding that the petitioner shall be entitled to deposit the amount of unpaid Provident Fund contribution for the period 1955 to 1965, for which the University shall calculate the amount and intimate to the petitioner within three weeks from the date of production of a copy of this order before the Registrar of the University. Upon the same being done, the petitioner shall deposit the amount in the University within four weeks thereafter. Once the amount is deposited, the University shall make calculation of all the dues of the petitioner and her late husband in accordance with law, after taking into account the period 1955 to 1965 also. Such exercise be completed within three months from the petitioner



depositing the amount with the University. It is indicated here that upon depositing the amount, the petitioner shall also serve a copy of the receipt on the Registrar of the University so that he is aware that the petitioner has deposited the amount.

8. Accordingly, the order impugned dated 03.12.2013, passed by the Vice Chancellor of the University and communicated to the late husband of the petitioner under University letter dated 12.12.2013 stands quashed. Though the earlier order pursuant to which the petitioner had moved the Court in C.W.J.C. No. 2959 of 2012 had not been set aside while the Court had disposed off the writ petition on 14.02.2012 giving liberty to the petitioner to file a representation before the authorities who were directed to examine the same, but to avoid any confusion, the earlier order of the Vice Chancellor dated 16.10.2012 also stands set aside.

(Ahsanuddin Amanullah, J)

Shamshad/-

AFR/NAFR	NAFR
Uploading Date	10.07.2018

