

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.236 of 2018

In
Civil Writ Jurisdiction Case No.13274 of 2010

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Anju Kumari, wife of Late Binod Yadav, resident of Killa Road, P.S. Chowk,
District Patna.

... .. Petitioner- Appellant/s

Versus

1. The Vice Chancellor, Magadh University, Bodh Gaya.
2. Registrar, Magadh University, Bodh Gaya.
3. Special Secretary, Magadh University, Bodh Gaya.
4. Principal, Guru Gobind Singh College, Patna City, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Amit Srivastava, Advocate Mr. Puneet Siddrath, Advocate Mr. Girish Pandey, Advocate
For the University	:	Mr. Ritesh Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-04-2018

Seeking exception to an order passed on 25.01.2012 in
Civil Writ Jurisdiction Case No.13274 of 2010, this appeal has
been filed under Clause 10 of the Letters Patent.

Appellant is a widowed lady. She is alleged to have been
granted compassionate appointment by the University in question
after death of her husband late Binod Yadav and due to her
involvement in the criminal case in the matter of committing fraud
in seeking appointment, way back in the year 2008, she was
suspended. Challenging the suspension, the writ petition in
question was filed and the learned Writ Court found that as the



appellant has been suspended due to pendency of the criminal case and the criminal case was still pending, the learned Writ Court did not interfere into the matter. The writ petition was, therefore, dismissed on 25.01.2012. However, on the said date, the appellant's counsel had not appeared and on perusal of the record and after considering the counter affidavit of the University, the suspension was not interfered with.

Even though the order was passed on 25.01.2012, there is a delay of five years and 357 days in filing of this appeal and delay is sought to be condoned vide I.A. No.1307 of 2018 on the ground that the appellant's counsel did not appear on 25.01.2012. He did not inform the appellant about the result of the case and finally, it was only when the appellant made enquiry then she came to know about the dismissal of the writ petition. Even though the order passed by the writ court with regard to refusal to interfere with the order of suspension due to pendency of the criminal case does not call for any interference, but today at the time of hearing, we are informed that even though appellant had been suspended in the year 2008, but no subsistence allowance has been paid to her. Only an FIR has been lodged, even the charge-sheet has not been filed in the criminal case and denial of subsistence allowance for more than 10 years now is unsustainable under law.



If that be the position, the University is required to look into the matter, and merely because the criminal case is pending and the writ petition has been dismissed affirming the suspension, the subsistence allowance legally due to the appellant cannot be denied.

Taking note of all these aspects of the matter, we are inclined to issue appropriate directions in the matter of payment of subsistence allowance to a widowed lady who is under suspension for more than 10 years. Accordingly, we condone the delay in filing of this appeal, see no reason to make any indulgence with the order passed by the learned Writ Court in the matter of interference with the order of suspension, but direct the University to examine the claim of the appellant for payment of subsistence allowance and in case the subsistence allowance has not been paid till date, the same be paid to the appellant retrospectively with effect from the date of suspension within 60 days along with interest at the rate of 8 per cent per annum from the date of due till its payment. In case, for any reason, the University feels that subsistence allowance is not to be paid to the appellant, it shall be incumbent upon the University to record cogent reason for the same and communicate the same not only to the appellant but also to the Registrar General of this Court. We may indicate that the



University shall ensure payment of subsistence allowance is found due and in case the appellant is not paid the subsistence allowance within the stipulated time, the appellant shall have liberty to mention the matter and we would take contempt action against the Registrar of the University concerned. In case, any adverse order is passed in the matter of denial of subsistence allowance to the appellant, the appellant shall have liberty to assail the same in accordance with law. In case, the Government's Circular and orders applicable to the University permits revocation of suspension in cases where no action has been taken in the pending criminal case for a long period of time, liberty shall be available to the appellant to seek revocation on such grounds and the University shall pass appropriate order on the same also within the aforesaid period.

With the aforesaid, the appeal stands disposed of.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28-04-2018
Transmission Date	

