

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 13517 of 2018

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Rajesh Kumar Agrawal, Son of Late Gopal Das, Resident of Baraphatak,
Daultaganj, P.S. Bhagwan Bazar, District - Saran (Chapra), Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Secretariat, Patna.
2. The Principal Secretary, HRD, Government of Bihar, New Secretariat, Patna.
3. The Vice Chancellor, Jai Prakash University, Chapra, Saran.
4. The Registrar, Jai Prakash University, Chapra, Saran.
5. The Principal, Rajendra College, Chapra, Saran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 27-08-2018

Heard learned counsel for the petitioner; State and J.P.

University (hereinafter referred to as the ‘University’).

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

“That this is an application for issuance of writ/writs, order/orders, direction/directions in the nature of mandamus commanding the Respondents authorities for the payment of retiral benefit which is due for payment to the petitioner after retirement from the post of Assistant from Rajendra College, Chapra on 31.01.2016. Further for direction of respondents authorities for payment of arrear of salary which is due for payment to the petitioner from 29.02.2008, the date upon which the services of the petitioner was absorbed and regularized in service by the University to till the date of retirement (31.01.2016) alongwith statutory interest.”



3. A counter affidavit has been filed on behalf of the University in which it has been stated that earlier the petitioner had moved the Court for the same relief in C.W.J.C. No. 7872 of 2017, and this fact has not been disclosed by the petitioner in the present writ application.

4. In support thereof, learned counsel for the University has produced copy of the writ petition of C.W.J.C. No. 7872 of 2017, in which the following reliefs have been claimed:

“(i) For issuance of writ in the nature of mandamus directing the respondent authorities to pay the retiral dues to the petitioner who has been retired from the post of assistant from the Rajendra College, Chapra, Saran on 31.01.2016.

(ii) For issuance of writ in the nature of mandamus directing the respondents authorities to pay the arrears of salary which has not been paid to the petitioner due to laches on part of the authorities of Rajendra College, Chapra, Saran whereas Jai Prakash University sent the money in this behalf.

(iii) For any other relief or reliefs for which the petitioner is found entitled in the facts and circumstances of the case.”

5. Comparison of the relief of both the cases discloses that they are identical.

6. In the earlier writ, which was disposed off by order dated 10.01.2018, ultimately, the Court has held the following at paragraph no. 7:

“7. Be that as it may, this Court cannot interfere in the matter for the simple reason that when the basic legality/validity of the service of the



petitioner has not been established even by the petitioner himself and rather the stand is that he has no documents to show that his service were ever regularized, there cannot be any direction by a Court of law for making payment from the public exchequer. However, if the petitioner has been taken for a ride by the authorities concerned, he may have a case against them by way of a money claim or for seeking compensation and damages but the same will have to be against specific individuals and not against any institution, for, the wrong of an individual cannot bind the authorities to such wrong act.”

7. The relief claimed by a party in a writ petition, irrespective of whether any order is passed specifically on each and every issue, the presumption is that the entire prayer was considered and then final order passed.

8. This is one aspect of the matter. The other more important aspect is that the petitioner had come for the same relief in C.W.J.C. No. 7872 of 2017, which had finally been disposed off by order dated 10.01.2018, with further observations. The present writ petition having been filed on 13.07.2018 i.e., after six months of the disposal of the first writ petition, such fact was mandatorily required to be disclosed in the present writ petition by the petitioner. The same not having been done clearly shows that the petitioner has not come before the Court with clean hands.

9. Accordingly, both on account of suppression of material facts as well as the order passed in C.W.J.C. No. 7872 of



2017, the Court finds that the matter stands concluded and the relief in the present writ application stands barred on the principle of res-judicata.

10. At this juncture, learned counsel for the petitioner submitted that he may be permitted to withdraw the writ petition with liberty to file review petition in the other writ petition which has been disposed off.

11. In view of the aforesaid, the writ petition stands disposed off with liberty aforesaid.

(Ahsanuddin Amanullah, J.)

P. Kumar

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