

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16673 of 2012

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Gorakh Nath Prasad Son Of Late Jagannath Prasad Resident Of A-46, Flat
No. 5, Hindon Vihar Basola, Sector 49, Noida, Uttar Pradesh

... .. Petitioner/s

Versus

1. State Of Bihar Through Principal Secretary, Human Resource Development
Department , New Secretariat, Patna
2. Director (Higher Education), Government Of Bihar, Patna
3. Vice Chancellor, B.R.A. Bihar University, Muzaffarpur
4. Registrar, B.R.A. Bihar University, Muzaffarpur
5. Finance Officer, B.R.A. Bihar University, Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar, Advocate
		Mr. Sanjay Parasmani, Advocate
For the University	:	Mr. Vikas Ratan Bharti, Advocate
For the State	:	Mr. Arbind Kumar, AC to GP-17

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 12-10-2018

Learned counsel for the petitioner submits that the date of appointment of the petitioner has been arbitrarily shifted without opportunity of hearing to the petitioner. The second grievance of the petitioner is that his pay scale has been wrongly fixed on the basis of auditor objection.

So far as the fixation of pay at the dictate of the auditor of the State Government is concerned, it has been held in numerous cases that the auditor of the State Government has no business in the matter of fixation of pay scale. It is the domain of the statutory pay fixation committee of the University and as such the University is required to consider the case of the petitioner



with regard to pay fixation by placing the case of the petitioner before the statutory pay fixation committee and on the basis of the decision of the pay fixation committee, the University is required to ensure payment of the dues of the petitioner.

So far as the second grievance with regard to withholding of Rs. 3 lacs and odd by shifting the date of appointment of the petitioner is concerned, it also cannot sustain as no order visiting evil or civil consequences can be passed without opportunity of hearing. Once it is admitted that the action of the University is without opportunity of hearing, the order cannot sustain. The University is required to follow the principles of natural justice and fair play in the matter of shifting of date of appointment of the petitioner and also in the matter of withholding any amount payable to the petitioner.

Considering the totality of the fact situation, the writ petition is allowed. The University is required to take fresh decision with regard to (a) entitlement of the petitioner as to the date of appointment and benefit of such appointment (b) entitlement of pay notwithstanding objection of the auditor of the State Government by placing the same before the statutory pay fixation committee of the University (c) the University is also required to work out the entitlement of the petitioner after the



decision of the pay fixation committee and appropriate committee with regard to determination of the date of appointment of the petitioner. Necessary decision in this regard must be taken by the respondents with all consequential benefits within a maximum period of four months from the date of receipt/production of a copy of this order. In the matter of determination of the date of appointment of the petitioner, the University is required to provide opportunity of hearing to the petitioner and only thereafter the University may take any decision adverse to the interest of the petitioner.

With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
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