

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19574 of 2018

1. Kumari Neelam Sinha @ Neelam Sinha, W/o Sri Prem Kishore Sinha, Reader in the Department of Hindi
2. Smt. Anita Verma, W/o Sri Jitendra Kumar Sinha, Reader in the Department of Mathematics,
3. Smt. Reeta Verma, W/o Dr. Anup Kumar, Associates Professor in the Department of Physics, Associates Professor in the Department of Physics,
4. Smt. Pramila Sharma, W/o Sri Mahesh Kumar Singh Associates Professor in the Department of Chemistry,
5. Smt. Punam Kumari, W/o Sri Vishwajit Prasad, Associates Professor in the Department of Zoology,
6. Smt. Asha Lata, W/o Sri Balram Prasad, Holding Power of Attorney on behalf of Wife of Associate Professor in the Department of History Now retired.
7. YVNL Lalita Kumari, W/o Late Sri Satya Narayan, Associate Professor in the Department of Mathematics Now Retired.
8. Smt. Krishna Kumari, W/o Late Nirmal Kumar Sinha, Reader in Economics Now Superannuated.
9. Smt. Vandana Kumari W/o Sri Pradeep Kumar Sinha, Reader in Political Science Now Superannuated.
10. Smt. Bimla Singh, W/o Sri Ajay Kumr Singh, Reader in Political Science Now Superannuated.
11. Smt. Veena Akhaury, W/o Sri Subodh Kumar Sinha, Reader in Now Superannuated.
12. Smt. Nilam Dwivedi, W/o Late Dr. Ramashish Thakur, Associate Professor in the Department of History (Now retired),
All belonging to Ganga Devi Mahila Mahavidyalaya, Lohia Nagar, Patna

... .. Petitioner/s

Versus

1. Magadh University, Bodh Gaya Through Its Registrar
2. Vice Chancellor, Magadh University, Bodh Gaya.
3. The Registrar, Magadh University, Bodh Gaya.
4. The Finance Officer, Magadh University, Bodh Gaya.
5. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Office situated in New Secretariat, Patna, P.S.- Sachivalaya.
6. The Director, Higher Education, Department of Education, Government of Bihar, Office in New Secretariat, Patna
7. The Authorized Officer, Pay Verification Cell, Department of Education, Government of Bihar, New Secretariat, Patna



... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Subodh Kumar Sinha
For the Respondent/s : Mr. Jitendra Kumar Roy 1 -Sc13
For the M.U. : Mr. Ritesh Kumar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 20-08-2019 The petitioners have filed the present writ application for a direction to the respondents to shift back their date of initial appointment and grant all consequential benefit.

2. Out of 12 petitioners, 1 to 5 are still working as Reader and Associate Professor, whereas petitioner nos. 6 to 12 have superannuated.

3. They were initially appointed as lecturer in Ganga Devi Mahila College, which was made constituent in 4th phase. The dispute as to entitlement of absorption and the date of absorption against the sanctioned post/recommended post. On 30.04.1986, the matter was taken to the Apex Court. In order to decide the factual controversy, the Apex Court constituted Justice S.C. Agrawal (Retd) Commission. Justice Agrawal Commission after meticulous scrutiny of the relevant record and after marathon exercise submitted voluminous report. Justice Agrawal Commission has noted the date of entitlement and absorption of the Teachers of Ganga Devi Mahila College. The report of Justice S.C. Agrawal Commission was accepted by the



Apex Court in toto in the case of **State of Bihar & Ors Vs. Bihar Rajya MSESkk Mahasnagh & Ors**, reported in (2005) **9 SCC 129**. After the judgment of the Apex Court, the Magadh University issued notification, as contained in Annexure-1.

4. The details of the date of entitlement and absorption has been indicated in the notification (Annexure-1). After the notification of Magadh University, the case of the petitioners and others were considered by the Magadh University for grant of promotion as senior lecturer as well as for promotion to the post of Reader/Associate Professor, under the various scheme including the scheme of CAS. After pay fixation of the petitioners by the Statutory Committee of the Magadh University, unauthorized exercise was undertaken by the Auditor of the State Government and the Auditor of the State Government in the process of pay fixation reduced the pay scale and the status of the petitioners.

5. It has been held by this Court in numerous cases that there is statutory pay fixation committee and the Auditor of the State Government has absolutely no role in the matter of pay fixation.

6. The present writ application also involves the issue of the power of the Auditor of the State Government in the



matter of pay fixation and the re-determination of the date of absorption and refusing the entitlement of grant of promotion as senior reader/lecturer.

7. The Court is of the considered view that the report of Justice SC Agrawal Commission has been accepted by the Apex Court in toto and as such neither the University nor the State Government has any jurisdiction to tinker with the finding of the justice SC Agrawal Commission, which has the approval of the Apex Court in the case of Mahasangh (supra).

8. This Court has occasion to consider the similar issue in C.W.J.C. No. 511 of 2018 in relation to Magadh University. This Court has considered the judgment of the LPA Court in L.P.A. No. 218 of 2016, which was affirmed by the Apex Court in Civil Appeal No. 2704 of 2017.

9. For consistency and uniformity, the writ application is disposed of in the same manner as passed C.W.J.C. No. 511 of 2018 disposed of on 16.03.2018.

10. Accordingly, the writ application succeeds. The order as contained in Annexure-3 Series are declared as nullity and inoperative and accordingly the same are quashed. The respondents are hereby directed to restore all the benefits to the petitioners treating their date of initial entry in service in the



light of the report of Justice SC Agrawal Commission, which was accepted by the University and notification to that effect was issued vide Annexure-1.

11. Necessary corrective measures may be taken by the University within a maximum period of one month from the date of receipt/production of a copy of this order and follow up is required to be taken by the State Government in furtherance of the decision of the Apex Court discussed herein above.

(Anil Kumar Upadhyay, J)

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