

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3982 of 2000

Arising out of

Civil Writ Jurisdiction Case No. 6127 of 1999

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Birendra Kumar Son of late Choudhary Ramaballav Pd. Singh, resident of village and P.O. Kurmurhi, Police Station Sikrahta Kala, District Bhojpur, presently residing at Birla Colony, P.O. Phulwarishariff, Police Station-Danapur, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Professor Nazre Ahsan, Vice Chancellor, Patna University, Patna.
3. Professor Hihar Nandan Singh, Registrar, Patna University, Patna.
4. Sri Ganeshwar Pradhan, Budget-and-Accounts Officer-cum-Incharge Pensions, Patna University, Patna.
5. Sri Shyam Narain Singh, G.P.F., Assistant, Patna University, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Patanjali Rishi, Advocate
For the University : Mr. Ajay Behari Sinha, Advocate with
Mr. Neeraj Raj, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 27-06-2019

Heard learned counsel for the petitioner and learned counsel for the Patna University (hereinafter referred to as the 'University'). Nobody appears on behalf of the State.

2. The petitioner has moved the Court for initiation of contempt proceeding alleging deliberate and wilful violation of judgment and order dated 24.03.2000 passed in CWJC No. 6127 of 1999.

3. As per the said judgment, basically three directions were issued.



(a) Pension of the petitioner was to be revised by the University soon after the decision of the Court with respect to grant of pay scale to Section Officers of the University.

(b) The Court instead of awarding penal interest on delayed payment had directed the University not to charge the penal rent from the petitioner for the period during which he occupied the official quarter after his retirement. The Court had further observed that the Vice Chancellor would consider the desirability of charging the normal rent which is charged from the employees while in service and,

(c) Finally, the University was also directed to furnish the details of the calculation chart to the petitioner within a period of one week and the petitioner was given liberty that in case he was not satisfied with the calculation, he could further raise a claim before the Vice Chancellor, who was to examine and dispose it off by a reasoned order and communicate it to the petitioner within two weeks from receipt of the claim.

4. Various affidavits have been filed on behalf of the opposite parties and rejoinder by the petitioner. From the pleadings on record, it appears that the order which is alleged to have been violated had indicated that in pending *subjudice* matter before this Court in MJC No. 1044 of 1996 whatever was decided with regard



to the pay scale of the Section Officers would be applicable in the case of the petitioner. The said MJC No. 1044 of 1996 was disposed off by order dated 20.07.2000 in which it was directed to release salary, including arrears in favour of the Section Officers and Typists to the University, in the same scale as is being allowed to Section Officers and typists of the Secretariat and its attached offices of the State. The State being aggrieved took the matter before the Hon'ble Supreme Court in SLP (Civil) No. 19618 of 2000 and initially by order dated 11.12.2000, there was interim stay on the direction of this Court in MJC No. 1044 of 1996. Later, by order dated 25.01.2002, leave was granted and the interim order was directed to continue with the observation that the pension of the petitioner in the pay scale determined in order passed in MJC No. 1044 of 1996 is possible only after the decision of the Supreme Court of India in the said case. It appears that the Hon'ble Supreme Court on 17.07.2008 took note of the statement made by learned counsel for the Patna University- ".... that now the pay- scales in respect of post of Section Officer and Typist of the University and State of Bihar have been made equal. Therefore, the issue is academic in nature."

5. The SLP was accordingly dismissed noting that nothing survived and it had become infructuous.



6. On a query of the Court, learned counsel for the parties have not been able to show to the Court as to what was the notification of the State Government with regard to making pay scale in respect of Section Officers and Typists of the University and State of Bihar equal. Thus, the initial direction of the Court being dated 20.07.2000 in MJC No. 1044 of 1996 for making equal payment and there being an interim stay of the Hon'ble Supreme Court and finally the Civil Appeal disposed off on the basis of the stand taken that now the pay scales have been made equal, the Court finds that there has been no deliberate or wilful disobedience by the opposite parties in the present case. Moreover, as the matter requires in-depth scrutiny, the same cannot be the subject matter of any contempt as the issue, in effect, would require full and proper adjudication on merits once again. The law relating to contempt is settled. Unless there is a categorical direction and the direction is clear to everybody, a *bona fide* action on the part of the alleged contemnors cannot be termed to be wilful and deliberate to punish them under the law relating to contempt of Court.

7. In the aforesaid background, the Court does not find any reason to continue with the present proceeding. Accordingly, the same stands disposed off.



8. It goes without saying that the petitioner shall have remedy with regard to the claim, if any, in accordance with law, before the appropriate forum.

(Ahsanuddin Amanullah, J)

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