

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1309 of 2015

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The State of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna

... .. Appellant/s

Versus

1. Komal Kumari W/o Late Ranjan Kumar Singh Resident of Village Rukanura, P.S. Bakhtiyarpur, District Patna at present posted as a Routine Clerk in Shri Guru Govind Singh College, Patnacity in the District of Patna.
2. The Vice Chancellor, Magadh University, Bodh Gaya.
3. The Registrar, Magadh University, Bodh Gaya.
4. The Principal, Shri Guru Govind Singh College, Patna City, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Md. Irshad, Advocate
For the Respondent/s : Mr.Girijish Kumar

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 06-02-2019

Heard Mr. N.H. Khan, learned Standing Counsel
No. 1 appearing for the appellant, Mr. Shivendra Kishore,
learned Senior Counsel appearing for the Magadh University
and Mr. Rama Kant Singh, learned counsel appearing for the
respondent no. 1.

This *intra-court* appeal arises from judgment and
order dated 13.01.2015 passed by the learned single Judge in
C.W.J.C. No. 730 of 2014, whereby taking note of the grievance
raised by the petitioner for payment of her arrears of salary for
the period from February, 2010 until date and the letter of the



Registrar, Magadh University, dated 09.01.2015 making request to the Director, Higher Education, Bihar, Patna for release of funds for the purpose of payment of salary to the petitioner, learned single Judge chose to dispose of the writ petition with direction to the Director, Higher Education to take steps for release of the arrears. It is feeling aggrieved by this direction that the State in its Education Department is before this Court in this *intra court* appeal and having noted the submissions so advanced on behalf of the appellant that this Court in its order dated 02.01.2019 has observed thus :-

“The Learned Single Judge taking note of the subsequent development disposed of the writ petition with a direction to the Director, Higher Education to take steps for release of the arrears of salary within three months of receipt/production of a copy of the order and it is feeling aggrieved with this direction that the State Government as the appellant are before this Court.

The short submission made by the Mr. N.H. Khan, learned Standing Counsel No. 1 is, that the writ petitioner was not entitled for salary for the period she has discharged her duty against a non-sanctioned post and the State Government is not obliged to provide funds for such purpose and the University can manage it from its contingency. The submission of Mr. Khan is that the State Government is obliged to release funds only to the extent of sanctioned post and since there is no dispute that since after the



appointment of writ petitioner in 2008 until issuance of the letter dated 28.11.2014 adjusting the writ petitioner against a sanctioned post, she has discharged duties on a post which was not sanctioned post, she has discharged duties on a post which was not sanctioned, no obligation lies on the State Government to provide funds for the purpose.

Mr. Ramakant Singh, learned counsel appearing for the writ petitioner informs that in a dispute between the University and the State Government, the writ petitioner is made to suffer even if she has discharged her duty regularly on the post since her appointment in 2008 until her accommodation in 2014. It is his submission that the University has to provide her salary for the period March, 2010 until February 2015 from whatever resources that may be at their disposal and the issue needs to be resolved in between the University and the State.

Mr. Arvind Nath Pandey, learned counsel appearing on behalf of University prays for a short accommodation to enable him to seek instruction on the claim bearing note of the fact that the writ petitioner has discharged duties on the post all through even if it was against a non-sanctioned post.”

The University, on their part, taking note of the observations made by this Court in the order dated 02.01.2019, took up the responsibility for redressal of the grievances of the petitioner and for making payment of her arrears of salary and in which connection a cheque for amount of Rs. 9,58,347/-



bearing no. 066563 dated 01.02.2019 has been issued and credited in the account of the College where the petitioner is serving together with an order to the Principal to make payment of arrears of the petitioner calculated for the period 24.01.2009 to July, 2017. Such is the statement made in paragraph 4 and 5 of the affidavit filed today on behalf of the University enclosing not only the copy of the pay order but also the letter addressed to the Principal of the College for ensuring payment.

In our opinion, taking note of the subsequent developments, where though direction was issued by the learned Single Judge to the State to make payment, the University appreciating the legal position has taken over the responsibility to discharge the obligation as manifest from paragraphs 4 and 5 of the affidavit filed today, the issue has been rendered academic and this Court, thus, while modifying the order of the learned Single Judge to the extent it makes the State Government liable for the responsibility, would allow the appeal in light of the position reflecting from paragraphs 4 & 5 of the affidavit filed on behalf of the University today whereby, money has been transferred to the College in question, where the petitioner is serving, with direction to the Principal i.e. the respondent no. 4 to discharge his obligation as well as to the Registrar, Magadh



University to ensure that the steps taken by the University in redressing the grievance of the petitioner reaches its conclusion within a fortnight from today.

The judgment and order of the learned Single Judge passed on the writ petition stands modified to such extent.

The appeal is allowed with the directions/ observations above.

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
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