

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18429 of 2019

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Lalan Kumar Singh S/o Janeshwar Prasad Singh R/o-Mangwar, Ward No. 4,
P.S.-Basnahi, District-Saharsa, presently working as Associate Professor,
Deptt of Political Science, S.N.S.R.K.S. College, Saharsa, P.S. and Dist-
Saharsa

... .. Petitioner/s

Versus

1. The B. N. Mandal University Madhepura, through its Registrar
2. The Vice-Chancellor B. N. Mandal University, Madhepura
3. The Financial Advisor B. N. Mandal University, Madhepura
4. The Registrar B. N. Mandal University, Madhepura
5. The Finance Officer B. N. Mandal University, Madhepura
6. The Principal S.N.S.R.K.S. College, Saharsa, P.S. and Dist-Saharsa
7. The Additional Chief Secretary Education Deptt. Govt. of Bihar, Patna
8. The Director Higher Education, Govt. of Bihar, Patna
9. The Pay Verification Cell Department of Education, Bihar State Text Book
Publishing Corporation Ltd. Campus, Buddha Marg, Patna through its
Authorised Officer

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Purushottam Kumar Jha, Advocate
For the Respondent/s : Mr.Nirbhay Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 06-09-2019

Heard learned counsel for the petitioner and the
respondents.

The grievance of the petitioner in the present writ
petition is shifting the date of absorption contrary to the date of
absorption determined by Justice SC Agrawal Commission.

The College in question was made a constituent unit in
4th phase. When the matter was taken to the Supreme Court, in
order to decide the factual aspect the Apex Court constituted
Justice SC Agrawal (retd.) Commission to examine the entire



factual aspect and submit report. The Commission after marathon hearing and meticulous examination of the record, submitted a report. The report was accepted in toto by the Apex Court in the case of **The State of Bihar & Ors. Vs. Bihar Rajya M.S.E.S.K.K. Mahasangh & ors.: 2005(1)PLJR 464(SC)**. The State and the University were party to the proceeding before the Apex Court. The finding of Justice SC Agrawal Commission is binding on the State of Bihar and the University. They have absolutely no jurisdiction to tinker with the finding recorded by the Commission.

It appears that the Auditor of Pay Fixation Cell step in the matter of pay fixation and contrary to the determination made by Justice SC Agrawal Commission, the Auditor raised objection and on that basis the date of absorption of the petitioner was altered detriment to the interest of the petitioner. It has been held out in numerous cases that Auditor of the Education Department has absolutely no jurisdiction. The report of Justice SC Agrawal Commission is final and binding.

So far as the date of entitlement of absorption of the petitioner is concerned, in view of the report of Justice SC Agrawal Commission, the date of absorption of services of the petitioner is 30.12.1984. The respondents are, accordingly,



directed to rectify the mistake and determine the entitlement of the petitioner on the basis of entry made in the report of Justice SC Agrawal Commission as to the date of absorption and based on such absorption the respondents have to re-examine the date of entitlement of grant of promotion as Reader and other consequential benefits. The respondents have to take appropriate decision in the light of the report of Justice SC Agrawal Commission. Necessary decision in this regard must be taken by the respondents within a maximum period of 60 days from the date of receipt/production of a copy of this order with all consequential benefits.

The order contained in Annexure-7 is quashed.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.09.2019
Transmission Date	NA

