

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18115 of 2019

Subhash Jha, S/o Indra Narayan Jha, R/o- Mahishi North, Dist.- Saharsa,
presently working as Associate Professor, Deptt. of Geography, 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 Department, 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 Authorized Officer.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Purushottam Kumar Jha
For the Respondent/s : Mr. Prabhakar Jha (Gp27)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 04-09-2019 Heard learned counsel for the petitioner and the respondents.

2. The grievance of the petitioner in the present writ application is determination of the entitlement of the petitioner's pay by the Pay Verification Cell of the Education Department, Government of Bihar.

3. It has been held out in numerous cases that the Pay Verification Cell of Education Department of the State of Bihar



has absolutely no jurisdiction in the matter of pay fixation of teaching and non-teaching employees of the University, as there is Statutory Pay Fixation Committee of the University.

4. Mr. Purushottam Kumar Jha, learned counsel for the petitioner submits that the College, in question, was taken over by the University in terms of Section 4 (1) (14) of the Bihar State Universities Act. The College in question was made constituent along with other Colleges in 4th phase. The controversy raised as to determination of eligibility and date of absorption of teaching and non-teaching staff of college made constituent in 4th phase, the matter was taken to the Apex Court in the case of **State of Bihar & Ors. Vs. Bihar Rajya M.S.E.S.K.K. Mahasangh & Ors.**, reported in (2005) 9 SCC 129 and in order to decide the factual aspect, the Apex Court constituted Justice S.C. Agrawal (Retd) Commission. Justice Agrawal Commission after meticulous examination of the relevant record submitted voluminous report. The Apex Court accepted the report of Justice S.C. Agrawal Commission in toto in **Mahasangh Case** (supra). Justice Agrawal Commission has noted in its report, the date of absorption of the teaching staff and the determination of initial date of appointment and University as well as State were parties before the Apex Court.



5. As stated above, the Pay Verification Cell of the Education Department has no jurisdiction and in any view of the matter they have absolutely no jurisdiction to tinker with the finding of the Justice Agrawal Commission, which has approval of the Apex Court in Mahasangh Case (supra).

6. In view of the above, Annexure-7 cannot be acted upon. The University is directed to restore all the benefits to the petitioner in the light of the finding of Justice S.C. Agrawal Commission, so far as initial date of entry/absorption of the petitioner is concerned, the University is required to workout the entitlement of the petitioner for promotion as Reader with all consequential benefit in accordance with the date of absorption determined by the Justice Agrawal Commission and grant all consequential benefits including the promotion and pay fixation within a maximum period of 60 days from the date of receipt/production of a copy of this order.

7. In the event, the funds available before the University is not adequate for payment of arrears of salary, the University may raise demand for allocation of further fund to the State Government and the State Government is required to provide additional fund in terms of the obligation of the Bihar State Universities Act.



8. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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