

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18214 of 2019

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1. Shatrughna Sharan Singh, Son of Late Deo Charan Singh, Associate Professor Hindi, B.D. College, Mithapur, P.S.- Gardanibagh, District- Patna.
 2. Bijay Kumar, Son of Late Rabindra Kumar, Associate Professor Chemistry, B.D. College, Mithapur, P.S.- Gardanibagh, District- Patna.
 3. Narendra Kumar, Son of Sri Sahdeo Narayan Singh, Former Associate Professor, Chemistry, B.D. College, Mithapur, P.S.- Gardanibagh, District- Patna, Presently Principal, Maharaja College, At and P.S.- Ara, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. The Principal Secretary, Education Department, Bihar, Patna.
3. The Patliputra University, Patna.
4. The Vice-Chancellor, Patliputra University, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Amaresh Kumar Singh, Advocate
For the Respondent/s	:	Mr. Umesh Narayan Dubey, AC to GP-27
For the University	:	Mr. Dr. Anand Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 05-09-2019 Heard learned counsel for the petitioners and the respondents.

2. The issue in the present writ application is no more *res integra*. The grievance of the petitioners in the present writ application is alteration from the date of absorption pointed by the Justice S.C. Agrawal (Retd) Commission. The issue as to absorption was taken up to the Apex Court and the Apex Court constituted Justice S.C. Agrawal (Retd) Commission to submit report after factual enquiry as to the availability of post and the



date of entitlement for absorption. Justice S.C. Agrawal (Retd) Commission after meticulous examination of the relevant record/documents and after hearing the submissions of the respective parties submitted a voluminous report and the Apex Court accepted the report of Justice S.C. Agrawal (Retd) Commission in toto 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**.

3. Once the report of Justice S.C. Agrawal has the approval of the Apex Court, in a case where the State as well as the University was party neither the State nor the University can tinker with the report of Justice S.C. Agrawal (Retd) Commission. Unfortunately, the authorities of the Education Department entered into the controversy in the garb of enquiry by the auditor of the Education Department. It has been held out in numerous cases that the Auditor of the Education Department has absolutely no role in the matter of pay fixation and the determination of date of absorption, yet without jurisdiction illegal and arbitrary action has been taken and the petitioners were compelled to approach this Court as adverse decision was taken against the petitioners by the Auditor of the Education Department.



4. Considering the fact that similar issue was considered by this Court in other cases including C.W.J.C. No. 6211 of 2018, the present writ application is allowed and Annexure-3 Series is quashed. The University is directed to call for the entitlement of the petitioner for all consequential benefit from the date of entry/absorption as per the report of Justice S.C. Agrwal (Retd) Commission.

5. Necessary corrective measures in this regard may be taken by the respondents at the earliest preferably within a period of 60 days from the date of receipt/production of a copy of this order.

6. With the aforesaid, the writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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