

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1278 of 2018

Arising out of

Civil Writ Jurisdiction Case No.18197 of 2015

Dr. Prabhakar Bhatt, Son of Late Jagdhari Rai, Resident of Mohalla-Yog Vidya Sambardhak Mandal, Boring Road, Police Station-Kotwali Patna, Dist.-Patna-1 Now Retired Professor of Zoology Patna Science College, Patna University, Patna (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar through Shri R. K. Mahajan, son of not known, Principal Secretary, Education Department, Govt. Of Bihar, Patna
2. Prof. (Dr) Rash Bihari Pd Singh, son of not known, The Vice Chancellor, Patna University, Patna (Bihar).
3. Dr Rabindra Kumar, Son of now Known, The Registrar, Patna University Patna (Bihar)

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Purushottam Kumar Jha, Advocate
		Mr. Anil Kumar Tiwary, Advocate
For Patna University	:	Mr. Md. Nadim Seraj, Advocate
For the State	:	Mr. Rakesh Narayan Singh, AC to AAG-15

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 27-09-2019

Heard learned counsel for the petitioner; learned AC to AAG-15 for the State and learned counsel for the Patna University (hereinafter referred to as the 'University').

2. Pursuant to the order dated 21.08.2019, the Incharge Vice Chancellor and the Registrar of the University are present. Show cause has also been filed by them.

3. The order of the Court required calculation of unutilized earned leave of the petitioner treating him to have been in service till 31.01.2013. The stand of the University was that



they had filed LPA No.675 of 2018 against the order of the Court dated 20.12.2017 passed in CWJC No.18197 of 2015, contempt of which is alleged in the present application. On 21.08.2019, the Court had recorded the following order:

“Learned counsel for the petitioner; learned AC to AAG 15 for the State and Mr. Md. Nadim Seraj, learned counsel for the Patna University (hereinafter referred to as the ‘University’) have assisted the Court.

2. It was pointed out by learned counsel for the University that against the order of which non-compliance is alleged the University has preferred LPA No. 657 of 2018, which is pending. Learned counsel further drew the attention of the Court to order dated 27.08.2018 passed in CWJC No. 12070 of 2015 which has been filed by the present petitioner for salary in which the Court has directed the matter to be listed after disposal of LPA No. 675 of 2018.

3. Having considered the matter, the Court is constrained to observe that at the relevant point of time, i.e., on 27.08.2018 as the LPA was filed in the year 2018 itself, the Court was inclined to direct for listing of the writ petition after disposal of LPA No. 675 of 2018. However, after more than one year having elapsed and still there being no order



on the appeal clearly indicates that the University was only bothered with a formal filing of an appeal without pursuing the matter. The matter becomes worse for the University since there is no stay of the order of the writ Court in the appeal till date.

4. In view thereof, the Court would not allow the authorities to indefinitely keep pending the matter relating to implementation of the order dated 20.12.2017 passed in CWJC No. 18197 of 2015.

5. Accordingly, by way of last indulgence, the matter be listed on 27th September, 2019 under the heading 'For Orders', when affidavit shall be filed by the University showing compliance of the order dated 20.12.2017 passed in CWJC No. 18197 of 2015, if there is no order interfering with the order of the Writ Court, failing which the Vice Chancellor and Registrar of the University shall be personally present in Court."

4. Today, learned counsel for the University submitted that the appeal is likely to take some more time.

5. However, the Court appreciates the stand taken by the Registrar of the University at this juncture that as per the litigation policy of the State and even otherwise, since they are under legal



obligation to comply with the order dated 20.12.2017 passed in CWJC No.18197 of 2015, till the time the same is not reviewed or interfered with, the University would pay the dues as per the order dated 20.12.2017 to the petitioner under the head earned leave for the remaining 82 days. However, prayer was made that since the petitioner has superannuated, some safeguard should be provided to the University so that in the event the appeal succeeds, the money given to the petitioner may be returned to the University.

6. Having considering the fair stand, the Court is not inclined to keep the present application pending as the order dated 20.12.2017 has been agreed to be complied with.

7. Accordingly, the application stands disposed off with the observation that by 15th October, 2019 the payment of 82 days of earned leave shall be credited into the account of the petitioner. However, such transfer would be only upon the petitioner giving an undertaking that in the event the order dated 20.12.2017 is interfered with in favour of the University, he shall be agreeable to recovery up to 50% of the total monthly pension.

8. Personal appearance of the officers stands dispensed with.

9. Learned counsel for the petitioner submitted that he would be representing along with the aforesaid undertaking duly



verified and attested by learned counsel for the petitioner along with his photo identity card before the Registrar within one week from today. Let the same be done. Thereafter, payment shall be made to him as per the time fixed in this order.

(Ahsanuddin Amanullah, J.)

Prakash Narayan /-

AFR/NAFR	
U	

