

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1072 of 2019

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Krishna Kant Sharma, Son of Late Ram Lakhan Singh, resident of Village-
Maranchi, Char Bhaiya Tola, Ward No. 6, P.S. Maranchi, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The Magadh University through its Vice-Chancellor, Bodh Gaya.
3. The Vice-Chancellor, Magadh University, Bodh Gaya.
4. The Registrar, Magadh University Bodh Gaya.
5. The Finance Officer, Magadh University Bodh Gaya.
6. The Principal R.R.S. College, Mokama, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bijay Kumar Pandey, Advocate
For the State	:	Mr. Madhaw Prasad Yadav, GP 23
For the Magadh University	:	Mr. Arabind Nath Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 14-07-2020

The matter has been heard *via* video conferencing due
to circumstances prevailing on account of the COVID-19
pandemic.

2. Heard Mr. Bijay Kumar Pandey, learned counsel for
the petitioner; Mr. Madhaw Prasad Yadav, learned GP 23 for the
State and Mr. Arabind Nath Pandey, learned counsel for Magadh
University (hereinafter referred to as the ‘University’).



3. The petitioner has moved the Court for the following reliefs:

“i) For issuance of an appropriate writ(s) or direction to the respondents to pay all retirement benefits to the petitioner to the post of Librarian, who superannuated on 31.05.2008 from R.R.S College Mokama, a constituent unit of Magadh University.

The respondent Magady University has paid only amount of Gratuity in the pay scale of Assistant and they also fixed pension in old pay scale of Assistant.

ii) Further for issuance of an appropriate writ or direction to the respondent to provide calculation chart of paid amount so that it may transpire that under which head what amount paid and what amount is payable to the petitioner or any other relief/s to which the petitioner may found entitled in the facts and circumstances of the case.”

4. Pursuant to order dated 23.06.2020, supplementary counter affidavit has been filed on behalf of the University.

5. Learned counsel for the petitioner submitted that though he was entitled to the pay scale of Librarian and even discharged the duty of the said post, he was not paid the due emolument of that post and his representation also was not disposed off. It was submitted that the authorities have wrongly denied such scale to him.

6. Learned counsel for the State submitted that in the present case for retirement benefit whatever actual pay the petitioner was drawing at the time of his superannuation, based on



that, calculation and payment has been made and until the petitioner is held entitled to any higher scale, such claim cannot be entertained.

7. Learned counsel for the University, from the counter affidavit and especially the supplementary counter affidavit, submitted that the exact calculation and formula under which the post retiral benefits have been paid to the petitioner, is based on the actual pay drawn by the petitioner at the time of his superannuation, as has been explained in the supplementary counter affidavit. It was submitted that the calculation of retiral benefits based on such last pay drawn, and further, the same being revised in terms of the replacement scale, which has also been given to him, there are no further admissible dues remaining to be paid to the petitioner. It was submitted that till date, the scale of Librarian has not been granted to the petitioner and moreover, he is not entitled to such pay scale since he does not possess the requisite qualification of holding the post of Librarian.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that, for the present, whatever was legally due and admissible to the petitioner by way of retiral benefits, have been paid. The only issue which the petitioner has highlighted in the



present case is that he was entitled to a higher pay scale of Librarian, but it is also admitted that the same was never paid to him. He may have filed representation, which may have remained undisposed, but the same would not change the position as the retiral benefits are to be calculated on the basis of last pay drawn, unless at any stage, even pursuant thereto, the person is held entitled to any further payment based on higher pay scale having been granted to him.

9. In the present case, not only does the University refute the claim of the petitioner to be a Librarian, it has also been stated that the petitioner never got the pay scale of Librarian and further that there is no order of the competent authority in favour of the petitioner to indicate that he was ever granted such pay scale. Thus, the petitioner neither having drawn the higher pay scale of Librarian nor there being any order to this effect, whatever the University has paid to him and what has been brought on record in the present proceeding on behalf of the University, clearly indicates that no further payment of retiral benefit is due to the petitioner.

10. In view thereof, the writ petition stands disposed off.

11. However, it shall be open to the petitioner to move before the appropriate forum, in accordance with law, with regard



to his grievance that he was entitled to higher pay scale of Librarian during the time he was in service.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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