

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2394 of 2019

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Dr. Ram Naresh Sharma (Male), aged about 68 years, Son of late Ram Vilas Sharma Resident of Village- Gaini, P.O. Gaini, P.S. Khudawan, Distt. Aurangabad, A/p Kanchanvilas Mohalla- Kusumpuri Colony, West of MangalChauk, P.O. New Jaganpura, P.S. Ramkrishna Nagar, Patna- 800027

... .. Petitioner/s

Versus

1. The State of Bihar
2. Jai Prakash University, Chapra through Registrar, Jai Prakash University, Rahul Sankrityayan Nagar Chapra- 841301, Distt. Saran
3. The Vice Chancellor, Jai Prakash University, Rahul Sankrityayan Nagar Chapra- 841301, Distt. Saran
4. The Registrar, Jai Prakash University, Rahul Sankrityayan Nagar Chapra- 841301, Distt. Saran
5. The Finance Officer, Jai Prakash University, Rahul Sankrityayan Nagar Chapra- 841301, Distt. Saran
6. The Head of Department, University Department of Political Science, Jai Prakash University, Rahul Sankrityayan Nagar Chapra- 841301, Distt. Saran
7. The State of Bihar through Secretary -Cum- Commissioner, Department of Higher Education, Govt. of Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binod Kumar Labh with Ms. Kumari Archana @ Archana Sinha, Advocates
For the State	:	Mr. Samir Kumar, AC to SC 16
For the J.P. University	:	Mr. Nagendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 03-09-2020

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

2. Heard Mr. Binod Kumar Labh, learned counsel, along with Ms. Kumari Archana @ Archana Sinha, learned counsel, for the petitioner; Mr. Samir Kumar, learned AC to SC 16 for the State and Mr. Nagendra Kumar Singh, learned



counsel for the J.P. University (hereinafter referred to as the ‘University’).

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

“(i) For praying retiral dues i.e (a) pension (b) Revised pension (c) Gratuity (d) Group Insurance (e) Earned Leave encashment (d) arrear of pension (f) and any other dues who joined on 10.4.1981 and retired on 31.10.2016 after continuous service of 36 years.

(ii) For revising retiral dues etc. and thereafter direction be issued for payment of enhance arrear and other retiral dues as the petitioner promoted as Reader w.e.f. 19.9.1988.

(iii) For a direction to the Vice Chancellor & Registrar of the J.P. University to grant all benefits accrued to the petitioner after his Notification of promotion as Reader under Merit Promotion Scheme for short hereinafter referred as M.P.S.

(iv) For grant of statutory interest and also penal interest @ 18% compound interest per annum as the petitioner retired on 31.10.2018 and till date not a single farthing has been paid to petitioner, thereafter the petitioner is entitled for interest as held in the case of Alok Shankar Pandey Vrs. Union of India & Ors. Reported in 2007 SCCR 294 and in the case of D.D. Tiwari Vrs. Uttar Haryana Bijli Nigam Limited and Ors.



(v) For any other relief or reliefs for which the petitioner is entitled along with the cost of the case.”

4. Supplementary counter affidavit has been filed on behalf of the University in terms of the earlier order of the Court. The only issue which now remains is with regard to consequential benefits of promotion to the post of Reader to the petitioner.

5. Learned counsel for the petitioner submitted that earlier such promotion had been recommended by the Selection Committee headed by the then Vice Chancellor of the University and in the earlier round of litigation, when the promotion to the post of Reader was not being considered and the petitioner had moved this Court in CWJC No. 12709 of 2012, there was a direction to complete the formality and when the University did not comply with the order, the petitioner filed MJC No. 5432 of 2013 as the University was directed to take a final decision on the basis of the recommendation of the Selection Committee dated 18.01.2011, which was not done. It was submitted that in the MJC, the Court while disposing off the same on 09.11.2017, had observed that the Vice Chancellor has pointed out that the recommendation of the Selection Committee was required to be placed before the Syndicate for



approval and the case of the petitioner, which was done and thereafter the promotion of the petitioner from the post of Lecturer to Reader had to be notified, but the same has not been notified, which is against the order of the Court in the aforesaid case.

6. Learned counsel for the University, from the supplementary counter affidavit, submitted that under letter dated 22.10.2010 issued by the Governor's Secretariat to five Vice Chancellors, including that of JP University, they were restrained from taking any policy decision including those involving financial implication, but still the then Vice Chancellor of the University proceeded with holding the meeting of the Selection Committee in the case of the petitioner on 18.01.2011, which was totally illegal and beyond jurisdiction. It was submitted that once the original meeting of the Selection Committee and its recommendation itself was totally illegal, subsequent action would not ratify such illegal action/recommendation and create a right in the petitioner to claim any benefit. It was submitted that now the matter has to be considered afresh by the regular Vice Chancellor and as there is no regular Vice Chancellor of the University presently, in terms of letter dated 08.05.2020 of the Governor's Secretariat to all



the Vice Chancellors of the Universities of the Bihar, convening of any such Selection Committee cannot be done. It was submitted that once there is a regular Vice Chancellor such process would be undertaken and taken to its logical conclusion. Learned counsel further submitted that the calculation charts with regard to payments made to the petitioner have been brought on record.

7. Learned counsel for the petitioner submitted that there are errors in the calculation.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that once the University has given details of the calculation, if there are any errors in the same, it had to be pointed out specifically by the petitioner, to the authority concerned, by filing a representation, as it is a purely mechanical exercise, based on a formula which does not involve any legal issue. Thus, the petitioner is required to file an appropriate representation before the Competent Authority pointing out such error in the calculation charts which have been brought on record in the supplementary counter affidavit, which then is required to be verified by the authorities from the records.



9. As far as the claim for benefit on the post of Reader, the same not being notified and the stand that it has to start again from holding of meeting of the Selection Committee, the Court finds that the stand of the University is justified as the recommendation dated 18.01.2011 of the Selection Committee was totally illegal in view of the prohibition imposed by the Hon'ble Chancellor at the relevant point of time. Thus, as has been stated in the supplementary counter affidavit of the University, the matter is required to be undertaken afresh from the stage of being considered by the Selection Committee which can be done only by the regular Vice Chancellor of the University, upon the post being duly filled up.

10. In the aforesaid background, the writ petition stands disposed off with liberty to the petitioner to file a detailed representation before the Registrar and the Finance Officer of the University pointing out specific errors in the calculation. If the same is done within six weeks from today, the authorities concerned shall get the matter duly verified from the records and pass a detailed and reasoned order, within six weeks from the date of filing of the representation. If the contention of the petitioner with regard to there being error in the calculation is found to be correct, necessary correction shall be made and any



amount which is required to be further paid to the petitioner, shall be paid to him within four weeks from the date of passing of such order.

11. As far as promotion to the post of Reader is concerned, upon the regular Vice Chancellor of the University joining, the matter shall be considered afresh from the stage of consideration by a Selection Committee, in accordance with law. If the Selection Committee recommends the promotion of the petitioner, whatever further exercise required to be done, shall also be completed. However, the entire process would be taken to its logical conclusion, within four months from the regular Vice Chancellor being personally served a copy of this order by the petitioner.

(Ahsanuddin Amanullah, J)

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