

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1291 of 2018

In

Civil Writ Jurisdiction Case No.5818 of 2018

Dr. Sushil Kumar Singh S/o Sri Madan Mohan Singh R/o South of Exchange Office, Vidyapati Nagar, Ward No. 19/20, PO+PS+Town -District Saharsa, presently working as Associate Professor, Deptt. of Political Science Department, S.N.S.R.K.S. College, Saharsa, P.S. and Distt. - Saharsa.

... .. Appellant/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 District - Saharsa.
7. The Principal Secretary, Education Department, 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 Appellant/s : Mr.Purushottam Kumar Jha
For the Respondent/s : Mr.Ashutosh Ranjan Pandey -Aag15

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date : 05-02-2020

Heard learned counsel appearing for the appellant,
learned counsel appearing for the B.N. Mandal University,
Madhepura and learned counsel appearing for the State.

This Letters Patent Appeal has been preferred



against impugned order dated 20.04.2018 passed by learned Single Judge in C.W.J.C No. 5818 of 2018 by which and whereunder learned Single Judge directed the concerned University to calculate the arrears of the appellant and shall ensure payment of the same within a stipulated period. Furthermore, the learned Single Judge directed the concerned respondents to pay interest @ 9% from the date of filing of this writ application if the respondents failed to comply the order of the court, within the stipulated period, as fixed by learned Single in order dated 20.04.2018.

Learned counsel appearing for appellant submits that the learned Single Judge wrongly refused to make order in respect of interest due upon the arrear of salary of the appellant. Learned counsel of the appellant having relied upon judgment dated 13.07.2012 passed by a Division Bench in L.P.A No. 32 of 2011 submits that in the aforesaid decision, a Division Bench of this court granted interest from the due date of the arrear of salary and the principle as adopted by the Division Bench in the above-stated L.P.A No. 32 of 2011 is completely applicable in the present appeal also.

On other hand, learned counsel appearing for the University submits that the University has already calculated the



dues amount of the appellant, and, after calculation, sent the same to the State Government for ensuring the payment and, as a matter of fact, matter is pending with the State.

Learned counsel appearing for the State submits that no doubt, matter of payment of arrear of salary of the appellant is pending with the State Government, but as a matter of fact, the University could have made payment to the appellant from the internal fund of the University. He further submits that so far as, claim of the appellant in L.P.A is concerned, the same is not tenable because the learned Single Judge has specifically mentioned in the impugned order that the appellant is not entitled to get interest on payment of dues.

Having heard the contentions of the parties, we went through the record. In the present matter, it is an admitted position that the appellant was promoted to the post of reader under the time bound promotion scheme with effect from 30.12.1984, in the prescribed pay scale of Rs. 3000/- with all admissible allowances as per provision of the Act and Statutes and the notification of his promotion was published on 05.09.2012 which is evident from Annexure-7 to the writ petition. It is obvious from perusal of Annexure-7 to the writ petition that the appellant became entitled to get his due salary



on 05.09.2012 when the above-stated notification came into existence. Though, the effect of aforesaid notification was given from 30.12.1994, but as a matter of fact, the appellant was not satisfied with the date of fixation of his salary and he challenged the date of fixation of his salary before this court by filing writ petition which was allowed on 29.08.2016, and, thereafter, the appellant filed representation before the concerned University on 06.09.2016.

In the aforesaid circumstance, in our view the appellant is entitled to get interest on his dues @ 9% p.a. from 29.08.2016, when the order was passed in C.W.J.C No. 3025 of 2016, till the actual payment is made. Accordingly, the impugned order dated 20.04.2018 stands modified and, in the aforesaid manner, this letters patent appeal stands disposed of.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.02.2020
Transmission Date	

