

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2629 of 2019

=====

Shambhu Sharan Sharma, aged aout 71 yeas, Gender (Male) Son of Late Adya Prasad Singh resident of Village-Manjhaul, P.s.-Cheriya Bariyarpur, District-Begusarai retired as Re-designated Demonstrator from R.C.S. College, Manjhaul

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna
2. The Principal Secretary Education Department, Govt. of Bihar, Patna
3. The Vice-Chancellor, Lalit Narayan Mithila University, Darbhanga
4. The Registrar, Lalit Narayan Mithila University, Darbhanga
5. The Finance Officer, Lalit Narayan Mithila University, Darbhanga
6. The Principal, R.C.S. College, Manjhaul

... .. Respondents

=====

Appearance :

For the Petitioner	:	Mr. Shashi Bhushan Singh, Advocate
For the State	:	Smt. Binita Singh (SC28)
For the University	:	Mr. Rajiv Kumar Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

15 08-07-2021 Heard learned counsel appearing on behalf of the petitioner, learned counsel appearing on behalf of the State as well as learned counsel appearing on behalf of the respondent-University.

Learned counsel appearing on behalf of the petitioner would submit that the issue with regard to salary of redesignated Demonstrator was taken to the Apex Court in the case of *Durga Prasad Singh & others Vs. State of Bihar & others* (Civil



Appeal Nos. 6178-6181 of 2015) and the Apex Court has decided the aforesaid Civil Appeals. For ready reference, the order of the Apex Court dated 27.02.2017 is quoted hereinbelow:-

“We have heard learned counsel for the parties at great length.

These appeals arise out of challenge to the Bihar State Universities (Amendment and Validation) Act, 2012 (Bihar Act 22 of 2012) which has been upheld by the High Court by the impugned order. We do not find any ground to interfere with the view taken by the High Court in upholding the said Act.

We however make it clear that the present status, rank and pay of the appellants will not be disturbed. If any lab assistant has been given designation of demonstrator, which he continues to hold till date, it will not be withdrawn. They shall not be entitled to any further benefits in conflict with the impugned Act.

In view of above, the appeals are disposed of. No costs.

Pending applications, if any, shall also stand disposed of.”

Learned counsel appearing on behalf of the petitioner would submit that whatever pay was drawn by the petitioner prior to decision of the State Government is protected by the judgment of the Apex Court in the case of *Durga Prasad Singh* (supra) and the University as well as the State Government has absolutely no jurisdiction to deny pay fixation and payment



made to the petitioner as redesignated Demonstrator.

Mrs. Binita Singh, learned Standing Counsel for the State, would submit that the petitioner was never paid salary in revised pay scale of redesignated Demonstrator and, therefore, the judgment of the Apex Court in the case of *Durga Prasad Singh* (supra) is inapplicable.

Mr. Rajiv Kumar Singh, learned counsel appearing on behalf of the University, would submit that the judgment in the case of *Durga Prasad Singh* (supra) is binding on the University as well as the State Government and the University will act strictly in accordance with the judgment of the Apex Court in the case of *Durga Prasad Singh* (supra).

In view of the above, the writ application is disposed of with a direction to the University to examine the records and provide opportunity of hearing to the petitioner to establish the fact that he was drawing revised pay scale of redesignated Demonstrator before pay scale was downgraded. University is, accordingly, directed to provide opportunity of hearing to the petitioner and pass appropriate order in the light of the judgment of the Apex Court in the case of *Durga Prasad Singh* (supra) at the earliest preferably within a period of sixty (60) days from the date of receipt/production of a copy of this order.



With the aforesaid observations and directions, the
present writ application stands disposed of.

(Anil Kumar Upadhyay, J)

BT/-

U			
----------	--	--	--

