

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20001 of 2019

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Smt. Nirmala Prasad, aged about 77 years (Female), wife of Late Sriram Prasad, presently residing at Flat No.M/102 Sumit Chaudram Griham Apartment, Ramnagri Road, Ashiyana Nagar, Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Higher Education, Human Resources Development Department, Government of Bihar, Patna.
2. The Secretary, Higher Education, Human Resources Department, Government of Bihar, Patna.
3. The Vice Chancellor Magadh University Bodhgaya, Gaya.
4. The Registrar, Magadh University Bodhgaya, Gaya.
5. The Finance Officer Magadh University, Bodhgaya, Gaya.
6. The Principal Gaya College, Gaya.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Archana Prasad, Advocate
For the State	:	Mr. Subhash Chandra Mishra (SC-16)
For the University	:	Mr. Ritesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT
Date : 10-09-2021

This matter has been taken up for hearing online because of COVID-19 pandemic restrictions.

2. The petitioner is a widow of an employee, who was working as Demonstrator in Chemistry Department, Gaya College, Gaya, a constituent unit of Magadh University, and died on 25.06.1995 in harness. She has approached this Court, seeking direction to the University and other respondents for making payment of dues against some of the heads as indicated in paragraph no.5 of the writ application consequent upon the death of her husband. Out of five reliefs which the petitioner is



seeking, there is categorical statement made on behalf of the University that under the head, arrears of difference of salary from 01.08.1989 to November, 1992, Rs.47,828/- has now been paid to the petitioner on 07.08.2021. In respect of item no.5, it is the petitioner's specific case that an amount of Rs.41,921/- against dearness allowance was sanctioned but, the same has not been deposited in the petitioner's account. It is the stand of the University, on the other hand, that the relief of dearness allowance was not extended to the petitioner because she herself was working during that period and, therefore, was not entitled to the said benefit.

3. Learned counsel for the petitioner has disputed this fact and submits that the petitioner was working during the said period but, not under the University rather in the school, which can be said to be part of the University. On the basis of the pleadings on record, I find substance in the submission made on behalf of the petitioner in this regard. Accordingly, the respondents are directed to pay to the petitioner the said sum of Rs.41,921/-, which was payable against dearness allowance. Since, admittedly the respondents failed to pay this amount which remained pending for decades, this Court directs the University to pay the said amount with interest at the rate of



8% per annum within two months from today.

4. So far as the arrears on difference of salary from 01.08.1989 to November, 1992, since the University says that amount has been paid now in 2021, in the Court's opinion, a case for grant of interest on the said amount is also made out. The respondents are, therefore, directed to calculate interest on the said amount of Rs.47,828/- from the date when it became payable till the amount was actually paid to the petitioner at the rate of 8% per annum. This amount, so arrived at, must be paid to the petitioner within a period of two months from today, failing which, the said amount of Rs.47,828/- would earn interest at the rate of 12% per annum. Likewise, non-payment of amount against dearness allowance within stipulated time as directed above, shall make the University liable to pay interest at the rate of 12% per annum thereafter.

5. Learned counsel for the petitioner has further submitted that the petitioner has become aged and has crossed 80 years of age. She contends that after completion of 80 years of age, she is entitled for payment of pension at a revised rate. There is no such pleadings on record nor such relief has been sought.

6. Learned counsel for the petitioner has, however,



submitted that it may be difficult for the petitioner now at the age of 80 years, again approach this Court by filing a separate writ application for such relief.

7. It is heartening to note that learned counsel for the University has taken a very fair stand and has submitted that the University shall take all possible steps to expedite payment of family pension at the revised rate, if she is entitled to.

8. While appreciating the stand taken on behalf of the University, this Court observes that University itself should take initiative in this direction to ensure that all pensioners of the University who have crossed 80 years of age and are entitled for pension at the revised rate, are paid such benefits without giving them an opportunity to raise such grievance by filing a representation before the University or a writ application before this Court.

9. This writ application stands disposed of with the aforesaid observations and directions.

(Chakradhari Sharan Singh, J)

P. Tiwari/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	18.09.2021
Transmission Date	N/A

