

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23139 of 2018

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Prof. Ashok Kumar S/o Late Jyotindra Bhushan Prasad R/o at 306. Sharan Vihar, Road No. I/D, New Patliputra Colony, P.O. P.S.- Patliputra, District-Patna, Pin-800013.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Department of Education, Government of Bihar, Patna
5. The Magadh University, Both Gaya through its Registrar
6. The Vice Chancellor, Veer Kunwar Singh, Ara
7. The Veer Kunwar Singh, Ara through its Registrar
8. The Finance Officer, Veer Kunwar Singh University, Ara
9. The Principal Maharaja College, V.K.S. College, Ara

... .. Respondent/s

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Appearance :

For the Petitioner/s :	Mr. Shashi Shekhar Tiwary, Advocate.
For the Magadh University:	Mr. Pratik Kumar Sinha, Advocate.
For the VKS University :	Mr. Ritesh Kumar, Advocate.
For the Respondent/s :	Mr. Hari Mohan Mishra, AC to GP 27.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 23-11-2022

Heard Mr. Shashi Shekhar Tiwary, learned counsel for the petitioner, Mr. Pratik Kumar Sinha, learned counsel for the respondent Magadh University, Bodhgaya, Mr. Ritesh Kumar, learned counsel for the Veer Kunwer Singh University, Ara and Mr. Hari Mohan Mishra, learned AC to GP 27 for the State.

At the outset, learned counsel for the petitioner submits that during the pendency of this writ application, an order as contained in letter no. 178/2019 dated 03.07.2019 has been issued, whereby a unilateral decision has been taken for recovery of



Rs.46,617/- from the post retiral dues of the petitioner and the same has assailed by filing Interlocutory Application No.1 of 2019.

In view of the submissions made on behalf of the learned counsel for the petitioner, the **I. A. No.1 of 2019** stands allowed.

He further submits that while calculating his retiral dues, the respondent university has not added one increment, which was found admissible. He also submits that so far the GIC amount is concerned, the petitioner has been allowed interest of only 5 per cent, though the petitioner was entitled for 12.5 per cent of compound interest over the GIC amount till actual payment, as has been allowed to the other similarly situated persons. He next submits that though the earned leave for 294 days is said to have been paid, however, the calculation chart has not been furnished to him.

Before parting with the final outcome it would be apt and proper to observe that “any administrative order having civil consequences is required to be reasoned to disclose the nature of materials considered, prevent arbitrariness and encourage faith and fairness in the decision-making process”.



Admittedly the petitioner superannuated on 31.01.2015 and during his long service at no point of time any objection with regard to wrong fixation of pay scale or any show cause notice has been issued for any excess payment. It is also not the case of the respondent that the alleged excess payment is on account of the result of any fraud or misrepresentation on the part of the petitioner and nor he had any knowledge that the amount that was being paid to them was more than what he was entitled to. In a catena of judgment rendered by the Apex Court, it has been held that the employee cannot be held responsible in such a situation and recovery of the excess payment should not be ordered especially when the employee has subsequently retired. Reliance may be taken of **Syed Abdul Qadir & ors. Vs State of Bihar & others (2009) 3 SCC 475, State of Punjab & others Vs Rafiq Masih (White Washer) & others (2015) 4 SCC 334.**

Having regard to the above, this court is of the view that an attempt to recover any amount from the post retiral due after passage of so many years of retirement is unjustified. Hence, the impugned order of recovery dated 03.07.2019 is hereby set aside.

Further, considering the other grievance as claimed on behalf of the learned counsel for the petitioner, this writ application stands disposed of with a direction to the petitioner to



file a representation before the Registrar, Veer Kunwer Singh University, Ara, within a period of four weeks from today.

If such a representation would be filed before the Registrar, Veer Kunwer Singh University, Ara, he shall consider the grievance of the petitioner and pass necessary order preferably within a period of eight weeks, thereafter.

It is needless to say that if the petitioner would be found entitled to any retiral/outstanding dues the same shall be paid within the aforesaid period. Any claim denied, the respondent authority shall assign reason thereof.

It is also made clear that the Magadh University, Bodhgaya, shall cooperate in the matter for settlement of the dispute.

(Harish Kumar, J)

manoj/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.11.2022.
Transmission Date	NA.

