

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15363 of 2018

- 1.1. Usha Kumari Wife of Late Raj Kishore Prasad Sinha Resident of Anandpuri, Bibiganj, North of RLY Pani Tanki (Near S.K. Tent House) P.S. Muzaffarpur Sadar Distt Muzaffarpur.
- 1.2. Kumar Gaurav Vatsyayana Son of Late Raj Kishore Prasad Sinha Resident of Anandpuri, Bibiganj, North of RLY Pani Tanki (Near S.K. Tent House) P.S. Muzaffarpur Sadar Distt Muzaffarpur.
- 1.3. Kumar Dhiraj Vatsayayana Son of Late Raj Kishore Prasad Sinha Resident of Anandpuri, Bibiganj, North of RLY Pani Tanki (Near S.K. Tent House) P.S. Muzaffarpur Sadar Distt Muzaffarpur.
- 1.4. Noopur Kumari Daughter of Late Raj Kishore Prasad Sinha Resident of Anandpuri, Bibiganj, North of RLY Pani Tanki (Near S.K. Tent House) P.S. Muzaffarpur Sadar Distt Muzaffarpur.

... .. Petitioner/s

Versus

1. The Chancellor, University of Bihar through the Principal Secretary, Raj Bhawan, Patna.
2. The Jai Prakash University, Through the Vice Chancellor at and P.O. Chapra Distt. Saran.
3. B.N. Mandal University through the Vice Chancellor a Lalu Nagar, P.O. and Distt. Madhepura.
4. The Registrar, B.N. Mandal University At Lalu Nagar, P.O. and Distt. Madhepura.
5. Sri S.C. Das Financial Advisor, B.N. Mandal University, Lalu Nagar, P.O. and Distt. Madhepura.
6. Sri M S Pathak, Finance Officer, At Lalu Nagar, P.O. and Distt.- Madhepura.
7. The State of Bihar through the Principal Secretary, Higher Education Department, Govt. of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Nand Kishore Singh, Advocate. Mr. Jitendra Kumar, Advocate.
For the J.P. University	:	Mr. Ritesh Kumar, Advocate
For the B.N. Mandal University	:	Mr. Shashi Bhushan Singh, Advocate
For the State	:	Mr. Mukund Mohan Jha, AC to GP-27

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

28 23-11-2022

Heard Mr. Nand Kishore Singh, learned counsel

for the petitioner, Mr. Ritesh Kumar, learned counsel for the



Jai Prakash University, Shashi Bhushan Singh, learned counsel for the B.N. Mandal University and Mr. Mukund Mohan Jha, learned AC to GP-27 for the State.

2. The grievance of the main petitioner in the present writ application is for payment of his post retiral benefits pursuant to his superannuation from the services of Jai Prakash University, on 31.7.2007.

3. During pendency of this writ application, the main petitioner died on 7.12.2021. Accordingly, wife and children of the petitioner has been substituted as his legal heirs in the present writ application. It is an admitted position that the pay fixed by the B.N. Mandal University on the basis of 6th pay revision has been made the basis for payment of retiral dues to the petitioner by the Jai Prakash University.

4. With regard to the payment on the basis of the scale of 7th pay revision, learned counsel for the respondent, Jai Prakash University, submits that as soon as the pay fixed by the B.N. Mandal University on the basis of 7th pay revision is verified by the Pay Verification Cell of the State Government, payment of retiral dues based on 7th pay



revision shall also be made to the petitioner by the University within a period of one month.

5. Mr. Nand Kishore Singh, learned counsel for the petitioner at this juncture submits that there is no requirement of verification of pay, fixed by the Statutory Pay Committee of the University, by the State Government through its Pay Verification Cell. Learned counsel relied upon the judgment passed by a Bench of this Court in which it has been held that University is required to follow the pay fixation made by the Statutory Committee of the University and, accordingly, directed the University to adhere to the determination of the pay fixation made by the Statutory Committee of the University and to grant all the benefits available to the petitioner in terms of the Judgment of the Apex Court in *Sunny Prakash case (supra)* reported in *(2013) 3 SCC 559* and to ensure payment of entire dues on the basis of pay fixation done by the University. A note of caution has also been given by the Court to the Vice Chancellor of the University and the Director, Higher Education, Government of Bihar, that in future, if the Court finds that similar attempt is made by them for defying the



direction issued by this Court in the matter of pay verification and the pay fixation and non-compliance of the direction issued by the Apex Court in *Sunny Prakash case (supra)*, reported in *(2013) 3 SCC 559* the Court will fix the personal accountability of the Vice-chancellor of the University as well as the Director, Higher Education, Government of Bihar.

6. The contention of the learned counsel of the University in the supplementary counter affidavit filed on behalf of the Jai Prakash University is that the University has calculated the basic pay of the petitioner at the time of retirement on the basis of 6th pay revision and on that basis the amount of leave encashment as well as gratuity to the tune of Rs. 10,00,000/- has been sanctioned and shall be credited in the account of the wife (present petitioner) of the main petitioner by the Treasury Officer by the Payee ID.

7. Apart from the aforesaid amount, it is an admitted position that arrears of salary between May 2015 to July 2017 to the tune of Rs.14,60,238/- has already been paid in favour of the petitioner. The arrears of pension from 1.8.2017 to 6.8.2021 to the tune of Rs.15,42,310/- has been



sanctioned by the University and shall be credited through CFMS in favour of the petitioner by the Treasury Officer. The arrears of family pension for the period 1.12.2021 to 28.2.2022 to the tune of Rs.2,26,759/- has also been sanctioned and shall be credited in the account of the petitioner through CFMS by the Treasury Officer.

8. In view of the aforesaid stand of the Jai Prakash University that the payments of the sanctioned amount shall be credited in the account of the petitioner within a period of one month from the date of receipt/production of a copy of this order, the Treasury Officer, Chapra, is directed to ensure payments of the amount sanctioned by University in favour of the petitioner within a period of one month.

9. In so far as issue of payment of pension, arrears of pension, leave encashment etc. as per 7th pay is concerned, it is an admitted position that the pay scale on the basis of 7th Pay Commission report has been introduced in the University with effect from 2016 and the petitioner has retired in the year 2017. As such, the petitioner is entitled to be paid the pension, salary and other retiral dues on the basis of his pay



fixation under the 7th pay revision. Accordingly, respondent Jai Prakash University is directed to fix the pay of the petitioner as per the 7th pay revision through its Statutory Pay Fixation Committee, as decided by this Court in the case of *Indranath Jha (supra)* and shall pay the retiral dues, based on the basis of fixation done in the 7th pay revision, to the petitioner including the arrears of salary, arrears of pension, arrears of leave encashment and other retiral dues within a period of three months from the date of receipt/production of a copy of this order.

10. With this observation and direction, this application stands allowed.

(Anil Kumar Sinha, J)

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