

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17301 of 2018

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Smt. Runa Devi W/o Late Umashankar Resident of Mohalla - Mitanghat,
Aadarsh Colony, P.S. - Khajekalan, P.O. - Jhauganj, District - Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Higher Education Secretary, Government of Bihar, Patna.
2. The Vice-Chancellor, Magadh University, Bodh Gaya.
3. The Registrar, Magadh University, Bodh Gaya.

... .. Respondents

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Appearance :

For the Petitioner	:	Ms. Chhaya Kirti, Advocate Mr. Saket Anand, Advocate Mr. Alok Kumar, Advocate
For the State	:	Ms. Namrata Singh, AC to GA-12
For the University	:	Ms. Prakritita Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 05-09-2023 Heard learned counsel for the petitioner and learned
counsel for the Magadh University as also learned counsel for
the State.

2. The petitioner in the present case is seeking a writ
in the nature of a Writ of Mandamus directing the respondents
to comply with the order passed by Hon'ble Mr. Justice S.B.
Sinha (Retd.) Commission as contained in Annexure '1' to the
writ application.

3. The petitioner is widow of one late Uma Shankar
Prasad who had been admittedly appointed as Lab Technician in
Psychology in Guru Govind Singh College at Patna City. On
record at least two things are there which are not in dispute. The



post of Lab Technician in Psychology was created as back as in the year 1979 and the affidavit of the University clearly states that the University had filed an affidavit before the Hon'ble Justice S.C. Aggarwal (Retd.) Commission in the year 2003 where the name of the husband of the petitioner figured as Lab In-charge Psychology with date of joining 26.08.1985.

4. No doubt in the same affidavit, it is stated that the name of the husband of the petitioner did not figure in the report of the Justice S.C. Aggarwal (Retd.) Commission, however, the affidavit is not clear as to why the order of Hon'ble Justice S.B. Sinha (Retd.) Commission as contained in Annexure '1' to the writ application has not at all been considered till date. A reading of Annexure '1' would show that the review application preferred by this petitioner for review of the order dated 11.05.2015 passed by the said Commission was dismissed but then the Hon'ble Commission has noted at the outset that the Commission had passed the order dated 11.05.2015 on the basis that only one sanctioned post was available.

5. The Commission has noted in its review order passed in L.A. No. 131 of 2016 (Claim Petition No. 559 of 2013) that indisputably late Uma Shankar Prasad was appointed on 26.06.1985 whereas the impleaded respondent was appointed



on 02.08.1985. The Commission having taken note of the submissions on behalf of the petitioner in the review application ultimately observed as under:-

“It is true that some of the documents filed before this Commission with the review application have not been filed along with the claim petition and, thus, cannot be taken into consideration by the Commission at this stage. However, in the peculiar facts and circumstances of the case, this Commission is of the opinion that the predicament of the applicant should be considered and her grievances be redressed by the University in accordance with law, particularly having regard to the fact on its own showing the governing body of the college had created a post as far back as in the year 1979, to which it was entitled to in its capacity as Minority Institution in terms of the 1976 Act as also the Judgment of the Patna High Court in Guru Govind Singh College being CWJC No. 1214 of 1974 disposed of on 26.05.1976.”

6. In the entire counter affidavit filed on behalf of the University, there is no averment that the case of the husband of the petitioner was ever considered keeping in view the observations of Hon’ble Mr. Justice S.B. Sinha (Retd.) Commission. Learned counsel for the University has tried to impress upon this Court by taking it to paragraphs ‘15’ to ‘17’ of the counter affidavit but the Court is not persuaded to accept the



submission of learned counsel for the University that the claim petition of the petitioner be taken to have been dismissed.

7. A bare reading of paragraphs '15' to '17' of the counter affidavit would show that the University is of the view that the review application was dismissed. The University is well aware of the observation that the grievance of the petitioner be redressed by the University but despite that there is no positive statement in the counter affidavit that the grievance of the petitioner was considered in a significant manner and an order was passed thereon.

8. This Court gets an impression from reading of paragraph '16' that by drawing an inference only it has been contended that the claim petition of the petitioner was dismissed. There is no material with the counter affidavit to demonstrate that the University had ever considered the case of the husband of the petitioner in the light of the specific observations and in fact those are in the nature of the directions in the order of Justice S.B. Sinha (Retd.) Commission.

9. In the kind of pleadings placed before this Court, this Court is of the considered opinion that the University has failed to consider the case of the husband of the petitioner/petitioner in the terms and spirit of the order of the



Hon'ble Justice S.B. Sinha (Retd.) Commission.

10. This Court, therefore, directs the competent authority of the University to consider the case of the husband of the petitioner (since deceased) keeping in view the entire facts and circumstances, particularly, the observations and opinion of the Hon'ble Justice S.B. Sinha (Retd.) Commission in its order as contained in Annexure '1' to the writ application.

11. Let such order be passed with reasons within a period of two months from the date of receipt/communication of a copy of this order.

12. In case the petitioner's husband is found entitled to the reliefs prayed, the consequential notification shall be issued.

13. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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