

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4390 of 2022

Om Prakash Verma, Son of Sri Dewan Prasad, Resident of Village - Bara Khurd, Police Station - Noorsarai, District - Nalanda, Address mentioned in Aadhar Card is resident of Q. No. B/413, Sector-2 HEC Colony, Dhurwa, Ranchi, Jharkhand, At present posted and working as an Assistant Professor (Economics) in S.N. College, Jehanabad.

... .. **Petitioner**

Versus

1. The State of Bihar, Patna.
2. The Additional Chief Secretary - Cum - the Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Additional Chief Secretary - Cum - the Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Director, Higher Education, Bihar, Patna.
5. The Chancellor of the Universities, Rajbhavan, Bihar, Patna.
6. The Joint Secretary Office of the Chancellor of the Universities, Rajbhavan, Bihar, Patna.
7. The Vice Chancellor, Magadh University, Bodh Gaya, District - Gaya.
8. The Registrar, Magadh University, Bodh Gaya, District - Gaya.
9. The Finance Officer, Magadh University, Bodh Gaya, District - Gaya.
10. The General Manager, Jharkhand Urja Sancharan Nigam Limited, Jharkhand.

... .. **Respondents**

with

Civil Writ Jurisdiction Case No. 4538 of 2022

1. Shyam Sunder Prasad Singh Son of Sri Jagdish Prasad Singh Resident of Village - Dumri, Police Station - Silao, District- Nalanda. At present posted and working as an Assistant Professor (Mathematics) S.N. Sinha College Warisaiganj, District- Nawada (Under Magadh University, Bodh Gaya).
2. Ramdeo Prasad Son of Maheshwar Prasad Resident of Village - Raghopur, Police Station - Fatehpur, District- Gaya. At present posted and working as an Assistant Professor in P.G. Centre of Psychology, Gaya College, Gaya (Under Magadh University, Bodh Gaya).
3. Sheobarat Ravidas Son of Late Adalat Ravidas Resident of Village - Musepur, Police Station - Khizersarai, District- Gaya. Presently residing at



Mohalla - Bhadrakali Nagar, Utri Janakpur, Post Office - Buniyadganj, Police Station - Muffasil, District- Gaya. At present posted and working as an Assistant Professor (Economics) in A.N.S. College, Barh, Patna (Under Patliputra University).

4. Parshuram Ram @ Parsuram Ram Son of Sri Ramnaresh Ram Resident of Village - Mahisona, Dihtola, Police Station - Tetraht, District- Lakhisarai. At present posted and working as an Assistant Professor in B.S. College, Danapur, Patna (Under Patliputra University)
5. Ravindra Kumar Son of Late Subedari Singh Resident of Village - Lekha Bigha, Kamalpur, Police Station - Tekari, District - Gaya. At present posted and working as an Assistant Professor in Daudnagar College, Aurangabad (Under Magadh University).
6. Nageshwar Ram Son of Late Chandrika Ram Resident of Village - Mirzapur, Police Station - Nabi Nagar, District- Aurangabad. At present posted and working as an Assistant Professor in R.B.G.R. College, Maharajganj, District- Siwan (Under Jai Prakash University)

... .. **Petitioners**

Versus

1. The State of Bihar.
2. The Additional Chief Secretary - cum- the Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Additional Chief Secretary - cum- the Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Director, Higher Education, Bihar, Patna.
5. The Chancellor of Universities, Rajbhavan, Bihar, Patna.
6. The Joint Secretary, Office of the Chancellor of the Universities, Rajbhavan, Bihar, Patna.
7. The Vice Chancellor, Magadh University, Bodh Gaya, District - Gaya.
8. The Registrar, Magadh University, Bodh Gaya, District- Gaya.
9. The Vice Chancellor, Patliputra University, Patna.
10. The Registrar, Patliputra University, Patna.
11. The Vice Chancellor, Jai Prakash University, Chapra.
12. The Registrar, Jai Prakash University, Chapra.

... .. **Respondents**

with

Civil Writ Jurisdiction Case No. 7141 of 2022



Dr. Vinod Kumar Son of Sri Basudeo Prajapati resident of Village- Bharari, Near Shiv Mandir, Police Station- Sherghati, District- Gaya. At present posted and working as an Assistant Professor (Economics), Deptt. of Economics, in Gaya College, Gaya (Under Magadh University).

... .. **Petitioner**

Versus

1. The State of Bihar
2. The Additional Chief Secretary-cum- the Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Additional Chief Secretary-cum- the Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Director, Higher Education, Bihar, Patna.
5. The Chancellor of the Universities, Rajbhavan, Bihar, Patna.
6. The Joint Secretary, Office of the Chancellor of the Universities, Rajbhavan, Bihar, Patna.
7. The Vice Chancellor, Magadh University, Bodh Gaya, District- Gaya.
8. The Registrar, Magadh University, Bodh Gaya, District- Gaya.
9. The Finance Officer, Magadh University, Bodh Gaya, District- Gaya.
10. The Divisional Railway Manager, Northern Railway Hazratganj, Lucknow, Uttar Pradesh.

... .. **Respondents**

Appearance :

(In Civil Writ Jurisdiction Case No. 4390 of 2022)

For the Petitioner : Mr.Umesh Kumar Mishra, Advocate
For the Respondents : Ms.Abhanjalli, AC to GA-12
For the M.U. : Mr.Om Prakash Kumar, Advocate
For the Union of India : Mr.Sujeet Kr. Sinha, Advocate

(In Civil Writ Jurisdiction Case No. 4538 of 2022)

For the Petitioners : Mr.Umesh Kumar Mishra, Advocate
For the M.U. : Ms.Prakritita Sharma, Advocate
For the J.P. Univ. : Mr.Ritesh Kumar, Advocate
For the Respondents : Smt. Binita Singh, SC-28

(In Civil Writ Jurisdiction Case No. 7141 of 2022)

For the Petitioner : Mr.Umesh Kumar Mishra, Advocate
For the M.U. : Mr.Faiz Ahmad, Advocate
For the Respondents : Smt. Binita Singh, SC-28

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 16-08-2023

Heard learned counsel for the petitioners, learned
counsel for the Magadh University, Bodhgaya, learned counsel



for the Jai Prakash University, Chapra and learned counsel for the Patliputra University, Patna as also learned counsel for the State.

2. On the request of learned counsel for the parties, these three writ applications are being taken up and they are being disposed of by this common judgment/order.

3. For purpose of reference, this Court has taken the facts and the reliefs prayed by the petitioners from one of the writ applications i.e. CWJC No. 4390 of 2022.

4. Learned counsel for the petitioners and the respondents have informed this Court that all the three writ applications are praying for common relief and the facts are identical.

5. The petitioners in these writ applications are praying for the following reliefs:-

“i. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities of the Magadh University, Bodh Gaya to open the G.P.F. account/savings account, prevailing in the Magadh University and provide him all the benefits under the old pension scheme, as the petitioner was earlier discharging his duties as the Office Superintendent in the Jharkhand Urja Sancharan Nigam Limited, Jharkhand and after technically resigning from the said post, the petitioner joined the services as an Assistant Professor in the S.N. Sinha College, Jehanabad (a college under the Magadh University, Bodh Gaya) on 1st of July 2017 and as the petitioner was earlier discharging his duties in the State of Jharkhand under old pension scheme



and has joined the present post of Assistant Professor through proper channel, he is entitled to be placed under old pension scheme, as per the guideline issued by the Deptt. of Finance, Govt. of Bihar vide letter no. 1548 dated 27.06.2011 and 768 dated 03.07.2017, by which, it has been decided that those employees, who were appointed and working under any department cadre/office or constitutionally formed autonomous body of State Government, under Bihar Pension Rule-1950 and its circulars upto to 31st August 2005, if he joins in another department cadre/office or constitutionally formed autonomous body of State Government where Bihar Pension Rule-1950 and its circular were applicable to its employee, he will avail the benefit of old pension scheme if he had been relieved as per rule after 01.09.2005.

ii. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to open the new G.P.F. account/savings account, prevailing in the Magadh University in the name of the petitioner but in spite of repeated request the same has not been done.

iii. For issuance of an appropriate writ in the nature of mandamus for commanding directing the respondent authorities concerned to redress the genuine grievance of the petitioner as the petitioner has been repeatedly representing the authorities concerned for opening of his G.P.F. account/savings account, prevailing in the Magadh University and placing his services under old pension scheme but in spite of lapse of more than four years, the same has not been done even though prior to joining the aforesaid college, the petitioner was discharging his duties under the old pension scheme and in the light of guidelines issued by the State Govt. time to time and under the provisions contained in the Bihar State Universities Act, 1976, the petitioner is entitled to be placed under the old pension scheme.

iv. For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner will be found entitled in the facts and circumstances of the case.”



6. It is the case of the petitioners that pursuant to an advertisement issued by the Bihar Public Service Commission (in short the “BPSC”) in the year 2014 for appointment on the post of Professor in different universities and constituent colleges in the State of Bihar for different subjects, the petitioners being eligible for the post of Assistant Professor applied for the same. The BPSC published the result in the year 2017 in which these petitioners were selected and they were accordingly appointed as an Assistant Professor.

7. It is their further case that prior to their appointment, petitioner, in CWJC No. 4390/2022, was initially appointed as Clerk through direct recruitment in the erstwhile Bihar State Electricity Board, Bihar, Patna and he joined in the Patratu Thermal Power Station (P.T.P.S.), Patratu, District – Ramgarh which is now falling in the State of Jharkhand. While serving in the P.T.P.S. Patratu he was promoted to the post of Office Superintendent. He joined his assignment as Assistant Professor after submitting his technical resignation on 30.06.2017. Similarly, the petitioners, in CWJC No. 4538/2022, were posted as Assistant Teachers/Headmasters in different government schools of the State of Bihar and the petitioner, in CWJC No. 7141/2022, was working as Traveling Ticket



Inspector (T.T.I.) in the Indian Railways.

8. It is the common case of the petitioners that since they were covered under the old pension scheme, they are required to be placed under the old pension scheme as per the guidelines issued by the State of Bihar from time to time as well as under the provisions of the Bihar State Universities Act, 1976 (hereinafter referred to as the “Act of 1976”).

9. The grievance of the petitioners is that despite several representations and requests made to the respondents the G.P.F. Account/Savings account of these petitioners have not been opened and no communication with regard to their representations are being made.

Stand of the Magadh University

10. A counter affidavit has been filed on behalf of the Magadh University, Bodh Gaya in CWJC No. 4390/2022. In paragraph ‘9’ of the counter affidavit, it is stated that the petitioner is covered under New Contribution Pension Scheme. As regards the Finance Department’s Resolution dated 27.06.2011 as contained in Annexure ‘10’ to the writ application based on which the petitioners are claiming old pension scheme, it is stated in the counter affidavit of the University that the same is meant for the employees of the State Government only.



In paragraph '11' of the counter affidavit of the University, it is further stated that the Education Department of the State Government has not come with any resolution for implementation in respect of employees of the University.

Stand of the Respondent Nos. 2 & 4

11. A counter affidavit has also been filed on behalf of respondent nos. 2 and 4. The Deputy Director, Higher Education has sworn the affidavit. It is the stand of these respondents that the service condition of an employee of a University is governed by the Act of 1976 and the relevant statutes framed thereunder. It is stated that the Hon'ble Chancellor has framed statute called 'Service statute of the University' which shall apply to all such persons who are in the service of the University. Another statute namely 'Statute for the grant of retirement benefits to employees of the University' has also been framed vide letter no. BSU/52/80-5285 G.S.(I) dated 18.11.1980 as amended by letter dated 25.11.1982.

12. The respondents do not dispute on facts that these petitioners were serving in different establishments of the erstwhile State of Bihar and in one of the writ applications the petitioner was serving in Railways.

13. Having dealt with the facts of the case, the counter



affidavit takes note of Clause 5(iii) of the Statute framed by the Chancellor whereunder the provisions relating to grant of retirement benefit to the employees of the University have been provided. It deals with the employees joining the service of the University after leaving service of another Government i.e. Central Government or State Govt. other than the State of Bihar or another University i.e. any Indian University other than a University in Bihar. Paragraph 12, 13, 14 and 15 of the counter affidavit have been placed before this Court to submit that according to Clause 5(iii), subject to the condition mentioned therein the employees joining the service of the University after leaving service of another government and the University shall, in the event of permanent absorption in the University, be allowed if the employee so writes, to count his/her previous service rendered under the Government/University for purposes of retirement benefits.

14. These respondents have taken a stand that the department has vide Memo No. 3255 dated 03.11.2022 requested the Registrar of the respondent University to supply the statements of fact with clear and categorical opinion.

15. Mr. Ritesh Kumar, learned counsel for the Jai Prakash University, Chapra in CWJC No. 4538/2022 has taken a



stand with respect to petitioner no. 6. It is his submission that the University is ready to consider the request of the petitioner and send it's recommendation to the Government in the light of the provisions of the Bihar Pension Rules.

Consideration

16. Having heard learned counsel for the petitioners, the Universities and the State, what has finally culled out is that all these Universities are required to look into the representations of the petitioners keeping in view the provisions of the Act of 1976 and the statutes framed by the Chancellor of the Universities in respect of the payment of retirement benefits and other admissible dues to the petitioners who have entered in the service of the University after technically resigning from their earlier service. Learned counsel for the Universities have jointly submitted that the Universities shall consider the representations of the petitioners and the petitioners are still at liberty to submit their representations and documents whatsoever are required for purpose of examining their cases. After examining their cases the University shall send it's recommendation to the Government within a time frame. Accordingly, this Court directs the Vice-Chancellors and the Registrars of the respective Universities to look into the



grievance of the petitioners, consider their representations in terms of the provisions of the Act of 1976 and the statutes governing them and take an appropriate decision thereon which would be sent to the Government within a period of two months from the date of receipt/production of a copy of this order. On receipt of the recommendations/decision of the University, the Additional Chief Secretary, Department of Education, Government of Bihar shall take appropriate steps within another period of two months and allow the petitioners all such benefits which they are entitled to in accordance with law.

17. These writ applications stand disposed of with the aforementioned directions.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	17.08.2023
Transmission Date	

