

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10017 of 2021

1. Binod Kumar Son of Late Shambhu Sharan Singh R/o 12/D, Mangalam Vihar Colony, Ara Garden Road, P.s.- Rupaspur, District- Patna
2. Narendra Kumar Sinha Son of Late Baban Prasad Sinha Resident of CA/37, P.C. Colony, Kankarbagh, P.o.- Lohia Nagar, P.s.- Kankarbagh, District- Patna
3. Sunil Chandra Singh Son of Late Satish Chandra Singh Resident of A/20, Sachivalya Colony, P.o.- Lohia Nagar, P.s.- Patrakar Nagar, District- Patna
4. Sachchidanand Pandey Son of Late Harinandan Pandey Resident of New Bengali Tola, Pragati Path, P.s.- Jakkanpur, District- Patna
5. Kamini Kumari Wife of Late Ashok Kumar Singh Resident of Chhatauna Niwas, Professor Colony, Bajrangpuri West, P.s.- Alamganj, District- patna
6. Ashok Kumar Singh Son of Late Shyam Prasad Singh Resident of Pathak toli, P.o. and P.s.- Jehanabad, District- Jehanabad
7. Akhauri Vijay Prakash Sinha Son of Late Akhauri Birendra Prakash Sinha Resident of Akhaurikunj, Mohalla- Viratpur, P.o. and P.s.- Aurangabad, District- Aurangabad

... .. **Petitioners**

Versus

1. The Magadh University Bodh Gaya through its Registrar
2. The Vice Chancellor, Magadh University, Bodh Gaya
3. The Financial Advisor, Magadh University, Bodh Gaya
4. The Registrar, Magadh University, Bodh Gaya
5. The Finance Officer, Magadh University, Bodh Gaya
6. The Patliputra University Patna through its Registrar
7. The Vice Chancellor, Patliputra University, Patna
8. The Financial Advisor, Patliputra University, Patna
9. The Registrar, Patliputra University, Patna
10. The Finance Officer, Patliputra University, Patna
11. The Principal TPS College, Patna
12. The Principal S.S.College, Jehanabad
13. The Principal S.Sinha College, Aurangabad
14. The State of Bihar through the Principal Secretary, Department of Education, New Secretariat, Vikas Bhawan, Patna
15. The Director, Department of Higher Education, Govt. of Bihar, New Secretariat, Vikas Bhawan, Patna
16. The Authorized Officer, Pay verification Cell, having its office in the building of Bihar State Text Book Publishing Corporation, Budh Marg, Patna

... .. **Respondents**



with
Civil Writ Jurisdiction Case No. 12097 of 2018

1. Om Prakash Sinha and Anr S/o Late Hardeo Singh, R/o- Village- Chiniya Bela, P.O. P.S. - Punpun, District- Patna.
2. Brind Kumar Singh, S/o Late Ram Narayan Sinha, R/o Village- Aimanbigha, P.O.- Kanchanpur, P.S.- Shajhanpur, District- Patna.

... .. **Petitioners**

Versus

1. The Magadh University, Both Gaya, through its Registrar, District – Gaya.
2. The Vice Chancellor, Magadh University, Bodh Gaya, District- Gaya
3. The Registrar, Magadh University, Bodh Gaya, District- Gaya
4. The Finance Officer, Magadh University, Bodh Gaya, District- Gaya
5. The Principal, S.M.D. College, Shripalpur, Punpun, Patna.
6. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
7. The Director, higher Education, Deptt. of Education, Govt. of Bihar, Patna

... .. **Respondents**

with
Civil Writ Jurisdiction Case No. 10665 of 2021

Indu Bhushan Sharma Son of Late Tipan Prasad Singh R/o- Karsa Kothi, Karsa, Bikram, P.S. - Bikram, District- Patna, Pin code - 801104.

... .. **Petitioner**

Versus

1. The Magadh University Bodh Gaya through its Registrar.
2. The Vice- Chancellor, Magadh University, Bodh Gaya.
3. The Financial Advisor, Magadh University, Bodh Gaya.
4. The Registrar, Magadh University, Bodh Gaya.
5. The Finance Officer, Magadh University, Bodh Gaya.
6. The Patliputra University, Patna through its Registrar.
7. The Vice Chancellor, Patliputra University, Patna.
8. The Finance Officer, Patliputra University, Patna.
9. The Principal, M.M. College, Bikram, Patna.
10. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, New Secretariat, Vikas Bhawan, Patna.
11. The Director, Department of Higher Education, Govt. of Bihar, New Secretariat, Vikas Bhawan, Patna.
12. The Authorized Officer, Pay Verification Cell, having its office in the building of Bihar State Text Book Publishing Corporation, Budh-Marg, Patna.
13. Mr. Shekhar, Assistant, presently working under the Finance Officer, Magadh University, Bodh Gaya, earlier an Assistant in the Establishment



Section of the Magadh University, Bodh Gaya.

... .. Respondents

with
Civil Writ Jurisdiction Case No. 16952 of 2021

Devendra Kumar, S/o Rajendra Prasad Singh, Resident of Village-Shahpur, P.S.-Benipatti, District-Madhubani, retired as Re-designated as Demonstrator in subject of Zoology in M.K.S. College, Trimuhan, Chandauna, Darbhanga.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
3. The Vice Chancellor, L.N. Mithila University, Darbhanga.
4. The Registrar, L.N. Mithila University, Darbhanga.
5. The Finance Officer, L.N. Mithila University, Darbhanga.
6. The Principal, M.K.S. College, Trimuhan, Chandauna, District-Darbhangha.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 10017 of 2021)

For the Petitioner/s : Mr.Purushottam Kumar Jha, Advocate
Mr.Avanindra Kr. Jha, Advocate

For the Magadh Univ. : Mr.Sunit Kumar, Advocate

For the PPU : Ms.Rasika, Advocate

For the State : Mr.Narendra Kumar, AC to GP-20

(In Civil Writ Jurisdiction Case No. 12097 of 2018)

For the Petitioner/s : Mr.Purushottam Kumar Jha, Advocate

For the Resp. No. 1-4 : Mr.Sunil Kumar Singh, Advocate

(In Civil Writ Jurisdiction Case No. 10665 of 2021)

For the Petitioner/s : Mr.Purushottam Kumar Jha, Advocate
Mr.Avanindra Kr. Jha, Advocate

For the M.U. : Mr.Sunit Kumar, Advocate

For the PPU : Ms.Rasika, Advocate

(In Civil Writ Jurisdiction Case No. 16952 of 2021)

For the Petitioner/s : Mr.Purushottam Kumar Jha, Advocate
Mr.Shashi Bhushan Singh, Advocate

For the State : Mr.Subash Chandra Mishra, SC-16

For the L.N.M.U. : Mr.Saket Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 01-09-2023

Heard learned counsel for the petitioners, learned
counsel for the State and learned counsel for the University



in these batch of writ applications.

2. On the request of learned counsel for the parties, these matters have been taken up together for consideration as they involved same and similar issue.

3. Mr. Purushottam Kumar Jha, learned counsel for the petitioners submits that the petitioners are aggrieved and dissatisfied with the letters issued by the Pay Verification Cell as contained in Annexure '4' to '9' of the writ application being C.W.J.C. No. 10017 of 2021 which has been taken as the lead case for purpose of reference of the pleadings.

4. Learned counsel submits that the petitioners including the deceased husband of substituted petitioner no. 5 are entitled to get the pay scale prescribed for the post of Demonstrators by the Government of Bihar and the same has been indicated in the statement prepared by the Pay Fixation Committee of the Magadh University. A copy of the said statement of the Pay Fixation of the Demonstrators in the old/new revised pay scale w.e.f. 01.01.1996 prepared by the Pay Fixation Committee of the Magadh University, Bodh Gaya has been enclosed as Annexure '17' series to the



writ application.

5. Learned counsel submits that instead of fixing the pay of the petitioners in terms of Annexure '17' series, the Pay Verification Cell of the State has issued the impugned letters by which the pay of the petitioners have been fixed on the lower side.

6. Referring to a judgment of this Court rendered in CWJC No. 6269/2015 (Annexure '32' to the rejoinder of the petitioners) and the judgment in CWJC No. 7784/2007 (Annexure '33' to the rejoinder), learned counsel submits that this Court has, upon taking into consideration the cases of the laboratory assistants, taken a view that they would be entitled for the scale of Rs. 8000-13500/- on completion of 16 years of service even if they have not reached to the stage of the scale of Rs. 8300/-.

7. The State has filed a counter affidavit. A plea has been taken that the State Government vide its memo no. 1893 dated 20.10.2013 decided to grant pay scale of Rs. 5500-9000/- (unrevised) upon revision, notionally w.e.f. 01.01.1996 and actually w.e.f. 01.04.1997, the pay band of Rs. 9300-34800/- with Grade Pay of Rs. 4200/- w.e.f.



01.01.2006 to those Lab Personnels who were having requisite qualification and appointed initially in accordance with law against the sanctioned vacant posts.

8. It is stated that after the amendment of the definition of 'teacher' under Section 2(v) of the Bihar State University Act, 1976 (hereinafter referred to as the "Act of 1976") the challenge to the said amendment failed, however, in course of hearing of the matter before the Hon'ble Supreme Court in Civil Appeal No. 6178-6181/2015 and other analogous cases which were disposed of on 27.02.2017 and an observation was made that the present status, rank and pay of appellant will not be disturbed and if any Lab Assistant has been given designation of Demonstrator which he continues to hold till date, it will not be withdrawn. They will, however, not be entitled to any further benefit in conflict with the impugned Act.

9. Learned counsel submits that the re-designated Demonstrators are entitled for pay scale of Rs. 5500-9000/- w.e.f. 01.01.1996 and Rs. 9300-34800/- with Grade Pay of Rs. 4200/- w.e.f. 01.01.2006 in view of letter no. 1893 dated



22.10.2013. It is stated that these petitioners were appointed as Lab Incharge who were later on designated as re-designated Demonstrators, therefore, in view of the order passed by the Hon'ble Supreme Court the petitioners are entitled for pay scale of Rs. 5500-9000/- w.e.f. 01.01.1996 which has been granted to them.

10. It is further stated that after amendment made in the definition of the word 'teacher' in the year 2012, the Demonstrators appointed prior to 1975 are teaching employees and Lab Personnel are non-teaching employees. As per guideline of the University Grants Commission (in short the 'U.G.C.') the State Government vide it's letter no. 1261 dated 09.06.2008 granted pay scale of Rs. 8000-13500/- to those Demonstrators who have reached at the stage of Rs. 8300/- in the pay scale of Rs. 5500-9000/- or completed 16 years of services as Demonstrator. It is stated that the said benefit has been extended to the Demonstrators appointed prior to 1975 and who are still teacher even after amendment made in the year 2012, but the said benefit is not admissible to the Lab Personnel appointed after 1975 as they are in the category of non-teaching employees.



11. As regards the grant of ACP/MACP to the petitioners, it is stated that the Demonstrators appointed prior to 1975 being teacher is not entitled for getting the benefit of ACP/MACP scheme, whereas the Lab Personnel being non-teaching employees are entitled to get benefit of ACP/MACP scheme.

12. In the aforementioned background, the respondents have justified the entitlement slip issued by the Pay Verification Cell.

13. So far as the judgments of this Court as contained in Annexure '32' and '33' to the rejoinder are concerned, those judgments have not been dealt with by the State respondents and nothing has been brought to the notice of this Court to demonstrate as to how those judgments would not be applicable in respect of the petitioners.

14. The University (Respondent Nos. 1 to 5) has also filed a counter affidavit. Paragraph (vi) to (x) are being reproduced hereunder:

“vi. That as per the provision under Section 35 of Bihar State Universities Act 1976 (amended upto date), the university is bound to follow the



directions of the State Govt. issue time to time in the involvement of financial implication. The University had issued consequential letter in pursuance of the direction of the State Govt. through its notification vide Memo No. 608 dated 01.04.2012 by which the Lab. Incharge, Lab Technician, appointed against duly sanctioned post by following the norms of appointment and fulfill the qualification are entitled to get prescribed pay scale otherwise they would get lower pay scale also cannot be treated under teaching cadre who were appointed after 18.03.1975 and post created after 01.01.1973 as per the amended Act Section 2(iv) of B.S.U. Act 1976.

vii. That the petitioners had also filed a writ petition vide CWJC No. 1330/2013 for the same grievances which was disposed of on 10.10.2018 and they did not get such relief.

viii. That it is relevant to mention here that they were appointed as Lab Incharge/lab Technician in different colleges and did not fulfill the conditions as laid down in the circular issued time to time by the State Govt. or the provision contained in the Statute.

ix. That it is pertinent to mention that they were appointed on 18.06.1976, 04.08.1977 and 08.12.1975 and joined as Lab Incharge on three dates i.e. 01.07.1976, 10.08.1977, 09.12.1975 as Lab Incharge. Details of appointment and joining has already been mentioned in detail in paragraph No. 7 of this counter affidavit.



x. That it is worth to mention here that the State Govt. has constituted a cell namely Pay Verification Cell who has examined the service records of the petitioners and pay verified and fixed/issued the pay entitlement slip in accordance with law and the university is bound to follow the direction of the State Govt.”

15. In the kind of the materials placed before this Court and on finding that the petitioners have already represented against the entitlement slip issued by the Pay Verification Cell of the State Government by way of a representation through their Advocate as contained in Annexure ‘27’ to the writ application, this Court is of the considered opinion that the State respondents are required to consider the representation of the petitioners keeping in view the judgments of this court which have been noticed hereinabove.

16. This Court has been informed that similar representations have been made in other writ applications as well. If the petitioners are so advised they can still submit their representations with all supporting documents within a period of two weeks to agitate their grievance.

17. Let such consideration be given in the light of



the judgments of this Court within a period of three months from the date of receipt/production of a copy of this order and an appropriate reasoned decision be communicated to the petitioners within the same period.

18. These Writ Applications stand disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	04.09.2023
Transmission Date	

