

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1891 of 2021

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1. Ferina Mosharraff, Gender- Female, aged about 34 years, Daughter of Late Mosharraful Haque.
 2. Marzia Mosharraff, Gender- Female, aged about 29 years, Daughter of Late Mosharraful Haque.
Both are resident of Sami Appartment, Flat No. 105, Khajpura, Baily Road, Patna, Police Station- Airport in the district of Patna.

... .. Petitioner/s

Versus

1. The Patliputra University, Patna through its Registrar.
2. The Vice Chancellor, Patliputra University, Patna.
3. The Registrar, Patliputra University, Patna.
4. The Finance Officer, Patliputra University, Patna.
5. The Principal, J.D. Womens College, Baily Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Advocate
For the Respondent/s : Mr. Rana Vikram Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 09-10-2023

Heard Mr. Sunil Kumar, learned counsel appearing on behalf of the petitioners and Mr. Rana Vikram Singh, learned counsel for the University.

2. Learned counsel appearing on behalf of petitioners submits that for non-clearing of certain examination required for availing higher pay-scale, an amount of Rs.4,01,208/- has been deducted from the gratuity of the



deceased employee.

3. The University has adopted policy for granting time bound promotion and to extend benefits of ACP and MACP to its employees. The financial up-gradation granted as a result of such benefit to the deceased employee will not amount to regular promotion. The undertaking of the concerned authorities that due to incorrect fixation of pension and recovery with a concept that extra payment has been paid to the deceased employee during her service period after her selection on the Class III or IV post is illegal. Learned counsel submits that recently in case of **Amresh Kumar Singh & Ors. Vs. the State of Bihar & Ors. Reported in (2023) SCC Online SC 496**, the Apex Court has clarified, reiterating several decisions, that financial up-gradation cannot be accounted for promotion on account of stagnation in service. Law with regard to excess payment is settled by the Apex Court in cases of ***State of Punjab & Ors. Vs. Rafiq Masih (White Washer) & Ors. reported in (2015) 4 SCC 334*** and **Thomas Daniel Vs. State of Kerala reported in 2022 SCC Online SC 536**. Learned counsel further submits that the petitioners seek to file a detailed representation before the Registrar of the University, for redressal of their grievance, as claimed for in the present writ



petition.

4. Considering the aforesaid submissions and law laid down by the Apex Court in the cases of **Amresh Kumar Singh (Supra), Rafiq Masih (Supra) and Thomas Daniel (Supra)**, the Registrar of the University is directed to dispose of the representation of the petitioners in accordance with law within a period of six weeks.

5. With aforesaid observation and direction, the writ petition stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.10.2023
Transmission Date	NA

