

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2620 of 2021

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SWAPAN KUMAR DAS S/o Late Nani Gopal Das R/o Dumdum Cantt, 31,
UK Dutta Road, P.o. and P.s.- Dumdum, District- Kolkata-700028

... .. Petitioner/s

Versus

1. BN Mandal University Madhepura through its Vice Chancellor
2. Vice Chancellor BN Mandal University, Madhepura
3. Registrar, BN Mandal University, Madhepura
4. Principal Marwari College, Kishanganj

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashwini Kumar Gupta, Advocate
For the Respondent/s : Mr. Shashi Bhushan Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 29-08-2023

Heard Mr. Ashwini Kumar Gupta, learned counsel
appearing on behalf of the petitioner and Mr. Shashi Bhushan
Singh, learned counsel appearing on behalf of the respondent.

2. Learned counsel appearing on behalf of the
petitioner submits that unilaterally the pension of the petitioner
has been reduced from Rs. 26,730/- to Rs. 23,932/- with effect
from December, 2020 and decision was taken and thereafter
again reduce to Rs. 23,932/- to Rs. 12,606/- unilaterally without
affording any opportunity of hearing to the petitioner.

3. The Authorities after realizing that petitioner is entitled for enhanced rate of pension by making payment at the rate of Rs. 12,606/- from December, 2020 to September, 2021 and then the petitioner was again paid enhanced pension to Rs. 23,932/- from October, 2021 to July, 2022.

4. The petitioner is aggrieved for payment of reduced pension for the period indicated above. The petitioner has clarified the said decision in Paragraph No. 3 of the rejoinder which is reproduced hereinafter:

“3. That paras 1, 2, 4, 7 to 9 of the counter affidavit do not require any comment. However, the petitioner reserves his right to file detail counter affidavit, if so required.”

5. The petitioner under above background aggrieved by the ex-parte decision taken by the University seeks to file detailed representation before the Registrar of the University.

6. This Court finds that it is the contention of the petitioner and from the counter affidavit filed on behalf of the University it appears that no satisfactory reply has been given to the aforesaid admitted facts indicated by the petitioner and this Court finds that unilaterally action taken against the petitioner is vested with malice and this Court deprecates such action.

7. The petitioner has desired to file a detailed representation before the Registrar of University.

8. The Registrar is directed to call for the service record relating to the petitioner and take a final decision with respect to the payment of appropriate pension and other retiral dues to the petitioner including the claim of the petitioner as detailed in Paragraph No. 5 of the rejoinder which is reproduced hereinafter:

“5. That para 5 of the counter affidavit is wrong and therefore denied. The letter dated 02.11.2020 (Annexure-A) is also not correct because it deals with the pay scale of Clerk whereas the petitioner was appointed on the post of Correspondent Clerk.

The following facts emerge from the service book of the petitioner:-

<i>Date of appointment Revised</i>	<i>Scale as and when</i>
<i>(i) 10.08.1984</i>	<i>Rs. 296</i>
<i>(ii) Salary as on 01.04.1985</i>	<i>Rs. 680</i>
<i>(iii) Revised scale vide letter dated 26.10.1989</i>	<i>Rs. 730-1080</i>
<i>(iv) Revised scale vide letter dated 01.02.1992</i>	<i>Rs. 785-1210”</i>

9. The representation of the petitioner is directed to be disposed of within a period of six weeks from the date of representation ensuring the payment of all retiral dues including the statutory interest on account of delay in making payment within the aforesaid period. In case, Authorities finds that petitioner is not entitled then in that case the petitioner must be

given opportunity to defend his case and a reasoned order be passed if the right of the petitioner affected in any manner.

10. In goes without saying in case the petitioner is entitled for the relief as prayed for in the present writ petition on the basis of the records and different circulars of the University all consequential reliefs for which petitioner is entitled including benefit of time bound promotion, ACP and MACP and final upgradation on account of such benefit granted to the petitioner as a result of stagnation on the opportunity based.

11. With the above observations and directions, the present writ petition stands disposed of.

(Purnendu Singh, J)

Manish/-
Minu/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.08.2023
Transmission Date	NA