

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16478 of 2016

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Pooja Verma daughter and only issue of Late Prof. Sudha Verma (Mother) and Late Maruti family Resident of 139 S.K.Nagar, Road no. 23, P.S. Budha Colony, in the town of Dist. of Patna.

... .. Petitioner/s

Versus

1. Patna University, Patna Through The Vice - Chancellor Patna University, Patna.
2. The Registrar, Patna University, Patna.
3. The Asstt. Registrar, Patna University, Patna.
4. The Head of the Department of Philosophy, Patna University, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arif Raza, Advocate.
For the Patna University : Mr. Digvijay Singh, Advocate.
Mr. B.J. Jha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

8 13-03-2023 Heard learned counsel for the parties concerned.

The petitioner has challenged the order dated 22.5.2015 passed by the Vice Chancellor, Patna University, in compliance of the order dated 2.7.2010 passed by this Court in CWJC No. 735 of 2003. The petitioner has also sought for a direction to the University to pay the salary from June 1993 to 7.7.1993, from 8.7.1993 to 17.7.1994, from 1.9.1994 to 17.4.1995 and from October 1995 till her retirement on 31.11.2004.

The original petitioner was working as Associate Professor in department of Philosophy, Patna University. She



had also approached this Court earlier in CWJC No. 5988 of 1997 claiming the same relief for payment of salary for the period from 8.7.1993 to 7.7.1994, 8.7.1994 to 16.7.1994 and 17.7.1994 to 31.8.1994. The writ application was disposed of on 26.10.1997 with a direction to the Vice Chancellor, Patna University, to consider the claim of the petitioner for payment of salary and in pursuance thereof, the claim of the petitioner was considered by the University vide letter dated 24.11.1998 issued by the Deputy Registrar, Patna, and salary for difference period was settled upto 20.9.1995.

The petitioner again filed a writ application bearing CWJC No. 735 of 2003 i.e. second writ application for almost similar claim and this Court vide its order dated 2.7.2010 again directed the Vice Chancellor to consider the claim of the petitioner for payment of salary observing that the petitioner by now has already retired from service and question only relates to payment of salary. In pursuance thereof, the Vice Chancellor of the University considered the grievance of the petitioner for payment of salary and passed a reasoned order on 25.2.2015 which has been challenged by the petitioner in this writ application.

Learned counsel for the petitioner submits that the



petitioner was suffering from spinal tuberculosis and was on medical leave and after returning from leave, joined duty on 8.4.1995. Thereafter, from October, 1995, the salary of the petitioner was stopped and the Medical Board was constituted by the University and after sometime the medical fitness report was given to the petitioner on 2.3.1996, but the University did not resume payment of salary to the petitioner. He further submits that the petitioner has suffered at the hands of the University which amounts to punishment and this Court in CWJC 3449 of 1995 relied upon a judgment of the Supreme Court reported in AIR 1994 SC 482 held *“that Major punishment cannot be inflicted without holding the Departmental Proceeding”*

On the other hand, learned counsel for the University submits that the petitioner did not report to the duty regularly and was absent continuously for so many months and years which has been taken into consideration in the impugned order passed by the Vice Chancellor, Patna University. The operative portion of the order passed by the learned Vice Chancellor is quoted hereinbelow:-

“From the perusal of records available it transpires that Dr. Verma was not regular during



her service period and she used to be absent on one ground or the other. She had earlier also filed a writ application bearing CWJC No. 5988 of 1997 for the payment of the salary from June 1993 to 07.07.1993, 08.07.1993 to 17.07.1994 and from 01.09.1994 to 17.04.1995. After the disposal of the said writ on 28.10.1997, the claims of Dr. Verma was settled by allowing leave to her whatever was available at that time. After that also Dr. Verma was not regular in her duties and several reports of absence by the then Head of the Department was sent to the University. Dr. Verma also earlier approached the Hon'ble Chancellor and filed a petition before him. A report was sent from the university to the Hon'ble Chancellor and the University was directed to take suitable disciplinary action against her for dereliction of duty including irregular absence. Had the University taken suitable disciplinary action against Dr. Verma at that time the question of payment of salary without doing the duty wouldn't have arisen. Right now also the University



is not in a position to pay salary to any of its employee without doing the duty in the prescribed manner. Dr. Verma is claiming the salary for the period during which she was on unauthorised leave. None of her absence had been allowed by any of the then authority. I am not in a position to allow the payment of salary as claimed by Dr. Verma on the salary bills which are not forwarded by her controlling officer i.e. Head of the Department and that too when so many reports are already sent by the then Head regarding her unauthorised absence.

The claim of Dr. Verma is thus rejected. Let a copy of this order be handed over to Dr. Verma.”

The Vice Chancellor, Patna University has arrived at the finding that the petitioner is claiming salary for the period she was unauthorisedly absent and this finding is based upon the materials available on record that none of her absence had been allowed by any competent authority. The Vice Chancellor has accordingly rejected the claim of salary of the petitioner on the principle of ‘No work no pay’.



After having heard learned counsel for the parties and taking into consideration the materials on record and the order passed by the Vice Chancellor and earlier order passed by the University which is at Annexure-B/I to the counter affidavit, I come to the conclusion that there is no infirmity in the impugned order passed by the Vice Chancellor, by which the claim of salary of the petitioner has been rejected on the ground that the petitioner was unauthorisedly absent for a long period.

Accordingly, this writ application stands dismissed.

(Anil Kumar Sinha, J)

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