

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16260 of 2022

- 1.1. Bharti Devi W/o - Late Dr. Birendra Jha, Resident of village - Fekla, Post - Yogyara, P.S. Bahadurpur, Darbhanga, Bihar - 847101.
- 1.2. Jata Shankar Jha, S/o Late Dr. Birendra Jha, resident of village - Fekla, Post - Yogyara, P.S. Bahadurpur, Darbhanga, Bihar - 847101.
- 1.3. Keshav Kumar Jha, S/o - Late Dr. Birendra Jha, Resident of village - Rosera, Circle and P.S. - Rosera, District Samastipur, at present resident of Mouna Kashmiri Hata, Chapra, Saran, Bihar - 841301 Resident of Mouna Kashmiri Hata, Chapra, Saran, Bihar - 841301.
- 1.4. Govind Kumar Jha, S/o - Late Dr. Birendra Jha, Resident of Ward no. 03, Badi Durga Sthan, Rosera Samastipur, Bihar - 848210.
- 1.5. Gauri Rani, D/o Late Dr. Birendra Jha and W/o Braj Kishor Jha, resident of Mahui, Sosri, Darbhanga, Bihar - 847201.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Higher Education, Government of Bihar, Patna.
2. The Kameshwar Singh Darbhanga Sanskrit University through its Registrar, Kameshwar Nagar Darbhanga.
3. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar Darbhanga.
4. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar Darbhanga.
5. The Finance Officer, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar Darbhanga.
6. The Governing Body, Gurukul Sanskrit College, Mehiyan, District- Saran (Chhapra).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Choudhary, Advocate. Ms. Sushmita Kumari, Advocate.
For the KIDSU	:	Mr. Deepak Kumar, Advocate.
For the State	:	Mr. Kameshwar Kumar, GP-17.



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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 08-08-2023

Heard Mr. Ashok Kumar Choudhary, learned counsel along with Ms. Sushmita Kumari, learned counsel for the petitioners; Mr. Deepak Kumar, learned counsel for the Kameshwar Singh Darbhanga Sanskrit University and Mr. Kameshwar Kumar, learned GP-17 for the State.

2. Learned counsel appearing on behalf of the petitioners seeks to file a detailed representation for consideration of the relief as prayed for in the present writ petition in light of the recent judgment passed by the Apex Court in the case of **Amresh Kumar Singh & Ors. Vs. The State of Bihar & Ors.** reported in (2023) SCC OnLine SC 496 wherein Hon'ble Supreme Court has held that financial upgradation given to the deceased employee on account of ACP/MACP will not amount to promotion. Learned counsel has further relied upon the judgment passed by the Apex Court in the case of **State of Punjab and Others Vs. Rafiq Masih (White Washer)** reported in (2015) 4 SCC 334. Learned counsel has further submitted that the concerned authority despite being aware of the fact that petitioner is widow of the deceased employee who had retired from the post of Assistant



Professor has recovered from her family pension as well as other retiral dues in the year 2023 on account of alleged incorrect fixation of pension on the basis of last pay drawn which they cannot do in light of the law laid down by the Hon'ble Supreme Court in the case of Rafiq Masih (supra).

3. Considering the limited prayer made on behalf of the petitioner that the petitioner seeks to file a detailed representation before the Registrar of the Kameshwar Singh Darbhanga Sanskrit University, the Registrar of the University is directed to dispose of the representation of the petitioner considering the fact that during the life time of the deceased employee, no action was taken and alleged excess payment have been deducted after delay of nearly 18 years which according to this Court is not justified, however, the Registrar must take appropriate steps to consider the representation of the petitioner in light of the law as laid down by the Apex Court in the case of **Rafiq Masih (supra)** and **Amresh Kumar Singh (supra)** and all other cases which the petitioner intends to rely and take a final decision with respect to returning the entire amount which has been recovered from the pensionary benefits of the petitioner within a period of six weeks from the date of filing of the representation.



4. The writ petition, accordingly, stands disposed
of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	09.08.2023
Transmission Date	N.A.

