

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16258 of 2022

Ram Vilas Sah Son of Late Bhavikshan Sah resident of Village- Hirmiya,
Ward No. 01, P.O.- Dharha, Circle- Rosera, P.S.- Rosera, District- Samastipur,
Pin- 848210.

... .. 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, Sanskrit College, Rosera, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms.Sushmita Kumari, Advocate.
For the State	:	Mr. Kumaresh Singh, AC to SC-28.
For the University	:	Mr. Deepak Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 06-07-2023

Heard Ms. Sushmita Kumari, learned counsel
appearing on behalf of the petitioner; Mr. Kumaresh Singh,
learned AC to SC-28 and Mr. Deepak Kumar, learned counsel
for the University.

2. The petitioner has filed the present writ petition
for the following reliefs:-

“That this is an application for the issuance of a writ in the nature of Mandamus commanding the respondent concern with direction to pay pension with effect from the month February, 2022 and other post retirement benefits such as Total Amount of Gratuity, Total amount of Earned Leave, Part of GPF amount (Employer Contribution with statutory benefit) including the benefit of ACP/MACP for which



petitioner entitle and difference of 7th pay scale with arrears from 01.01.2017 to February, 2020.”

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner had retired from the post of peon from Sanskrit Mahavidyalaya, Rosera on 31.01.2022. The petitioner was being paid regular salary and other benefits applicable to the said post as well as benefit of pay revision from time to time. The petitioner was issued no dues certificate after his retirement. However, the pensionary benefit has not been given to him till date. The authority of the University has not even fixed the pension of the petitioner. The petitioner further informs that the present writ petition has been filed for the following reliefs as mentioned in Paragraph-12 of the writ petition.

- “a. The total amount of Gratuity.*
- b. The total amount of Earned Leave of 300 days.*
- c. The part of GPF amount (Employers Contribution except few months, never added in the GPF account of the petitioner).*
- d. Pension with effect from the month February, 2022 with its arrear.*
- e. The benefit of ACP and MACP for which petitioner entitle legally.*
- f. Difference of 7th pay scale from the month 01.01.2017 to February, 2020.*

4. Learned counsel further submitted that the petitioner's case is covered by the law laid down by the Apex Court in **D.S. Nakara & Others Vs. Union of India** reported in



(1983) 1 SCC 305 for non payment of pensionary benefit is denial of fundamental right of the petitioner and is in violation of Article 300A of the Constitution of India.

5. *Per contra*, learned counsel appearing on behalf of the State inform this Court that pay fixation of the petitioner has not been verified by the Pay Verification Cell of the State Government. Learned counsel appearing on behalf of the State further informs this Court that the fund has already been released and credited into the account of the University and it is up to the University to see that why petitioner has not been paid dues, as claimed by him.

6. Learned counsel appearing on behalf of the University informs that all the formalities have been discharged by the petitioner as well as by the State Government and he will personally inform the Registrar of the University to make payment of all the admissible retiral dues, as claimed by the petitioner within a period of six weeks.

7. Considering the rival submission made by the parties as well as the fact that the petitioner had retired on 31.01.2022 and in spite of lapse of one and half years, no retiral dues has been paid to him. The record reveals that all the formalities has been performed by the State Government as well



as by the petitioner, this Court deprecates the manner in which the Vice-Chancellor of the University has treated the retired employee of the University by not making them payment of dues amount of the retiral benefits including the pension. The very deplorable fact that even the pension of the petitioner has not been fixed.

8. The Vice-Chancellor / Registrar of the University is directed to make payment of all the retiral dues including pension along with statutory interest admissible to the petitioner in accordance with law within a period of six weeks from the date of receipt of this order.

9. In case of failure, the Vice-Chancellor of the University will be liable to make payment of the retiral dues which has been claimed by the petitioner in the present case from his own pocket.

10. The writ application, accordingly, stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	17.07.2023
Transmission Date	N.A.

