

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3500 of 2020

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Syed Alay Athar son of Late Syed Alay Hyder, resident of C/O 395, Fanoos Iqra Road, SIG Hospital, Dhaurra Mori, Aligarh, District- Aligarh, Pin Code- 202002

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna
2. Chancellor of Universities of Bihar, Raj Bhawan, Patna
3. B.R. Ambedkar Bihar University Muzaffarpur through its Registrar
4. Vice Chancellor, B.R. Ambedkar Bihar University, Muzaffarpur
5. Registrar B.R. Ambedkar Bihar University, Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava
For the Respondent/s : Mr. Madhaw Pd. Yadaw (Gp23)

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL JUDGMENT

Date : 28-11-2024

The instant writ petition is a glaring instance of continuous suffering of an employee who was working as OSD Press, subsequently designated as Press Superintendent, in the B.R.A. Bihar University, Muzaffarpur.

2. Suffice it to say that on the basis of advertisement dated 08th December 1989, the petitioner was appointed as OSD Press of the above-named university. Subsequently, by a notification in exercise of the powers conferred under Section 36(3) of the Bihar State University Act, 1976, the petitioner's post was re-designated as the Press Superintendent. The Higher Education Department, Government of Bihar, issued an order on



12.10.2004, declaring higher scale of pay to the officers and non-teaching staffs of the universities in the State of Bihar and the constituent colleges with effect from 01.01.1996. As per the said notification, the revised salary of the Press Superintendent was 6,500-10,500/-. Subsequent to the said notification (Annexure 4), the Director, Human Resources Development (Higher Education) Department issued a letter to the Registrar of all the universities on 19th April 2006, stating, *inter alia*, that the Pay Fixation Committee shall determine the pay scale of all the employees of the universities and in future the recommendation of the Pay Fixation Committee would not be required to be sent for ratification to the State Government. Annexure 6 also depicts that on 2nd February 2006, the salary of the petitioner was fixed at the revised scale of pay of Rs. 5,000-10,500/-. Subsequently, on 09th May 2006, in the meeting of Statutory Pay Fixation Committee of B.R.A. Bihar University, Muzaffarpur it was decided on the basis of the representations of the Executive Engineer, Assistant Engineer, Junior Engineer, Medical Officers, P.A. to Vice-Chancellor, Press Superintendent that their scale of pay would be fixed at par with their counterparts in the State Government and the proposed pay fixation would be referred to the State Government for final approval. In view of the said resolution, the University issued an



office order enhancing the pay-scale of the Executive Engineer, Assistant Engineers, and PA to the Vice Chancellors without giving reference to the State Government, however, the case of the petitioner was referred to the Government for decision.

3. The learned Advocate appearing on behalf of the petitioner has also filed a copy of Bihar Gadget (Extra) notification, dated 21st January 2010 where the salary of the Superintendent in the pay scale of 10,000-15,200/- was enhanced by virtue of 6th Pay Commission in Pay Band 3 with Grade Pay of Rs. 6600/-. Thus, it is contended on behalf of the petitioner that the scale of pay of the Press Superintendent must be at par with the scale of the Superintendent as per the aforementioned gadget notification. However, the University denied enhancement of pay scale to the petitioner. The State Government also by issuing Annexure 4 which is also a part of the counter-affidavit filed by the State Government (Annexure R/1) took a plea that the petitioner was entitled to lesser scale of pay. Finding no other alternative, the petitioner approached this Court in CWJC 839 of 2012. This Court disposed of the said writ petition vide an order dated 01st September 2017. I am constraint to note that without going into the factual details and taking into consideration the content and purport of the letter (Annexure 5). The High Court



disposed of the writ petition directing the petitioner once again to submit a representation before the University as well as the State Government and the University was directed to pass a reasoned order upon such representation. The university decided the matter on the basis of Annexure R/1 and held that the petitioner is entitled to get lesser scale of pay on the basis of the decision of the Human Resources Development Department, Government of Bihar dated 27th August 2010. At page 62 of the writ petition, the scale of pay of Press Superintendent was shown as Rs. 6,500-10,500/- as on 01st January 1996 and he was entitled to enhancement of salary in Pay Band 2 with Grade Pay of 4,200/-

4. On careful consideration of entire materials on record and having heard the submissions made by the learned counsel appearing on behalf of the parties, this Court finds that the fixation of pay of the petitioner by virtue of Annexure 12 is palpably wrong and violates the decision of the State Government taken earlier vide Annexure 5. It is needless to say that the University Pay Fixation Committee fixed the pay scale of the petitioner at Rs. 10,000-15,200 on the basis of the scale of pay of the Superintendent in the State Government establishment. Secondly, it was decided as a policy decision in respect of fixation of pay that the salary of the officers and non-teaching staffs of the



University would be at par with the salary of the State Government. Thirdly, it was decided by the State Government that the decision of the Pay Fixation Committee need not be sent to the State Government for approval. Such decision would be final and the Vice-Chancellor of the University must act on the decision of the Pay Fixation Committee.

5. In view of such factual circumstances adduced from different orders and notifications of the State Government as well as the University, this Court does not have any other alternative but to quash and set aside the reasoned order passed by the Vice-Chancellor on 05th November 2018. The grounds set-forth in the impugned order is not at all tenable in the light of different orders and notifications issued by the State respondents and University.

6. For the reasons stated above, a writ in the nature of mandamus be issued declaring the scale of pay of the petitioner in the Pay-Scale of Rs. 10,000-15,200 with effect from 01.01.1996 within 90 days from the date of communication of this order. It is also directed that the petitioner is entitled to get benefit of enhancement of pay scale on the basis of the aforesaid Pay Band subsequently, whenever pay scales and Grade Pay were revised and enhanced in accordance with the revision of pay by the State



Government as applicable to the University. In view of enhanced pay scale, the petitioner is also entitled for consequential benefits.

7. The instant writ petition is accordingly, disposed of on contest, however, there shall be no order as to cost.

(Bibek Chaudhuri, J)

Suraj Dubey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.11.2024
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