

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6135 of 2019**

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Premnandani Kumari Wife of Vijay Kumar Singh Resident of Village- Milki,  
P.S. Bihpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The Tilka Manjhi Bhagalpur University Bhagalpur.
2. The Vice-Chancellor, The Tilka Manjhi Bhagalpur University, Bhagalpur.
3. The Finance Officer, The Tilka Manjhi Bhagalpur University, Bhagalpur.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Amaresh Kumar Singh, Advocate  
For the Respondent/s : Mr. Ashhar Mustafa, Advocate

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL JUDGMENT**

**Date : 05-01-2024**

1. Heard learned counsel for the parties concerned.
2. The petitioner has filed the present writ application for a direction to the respondent- University to fix the pay of the petitioner from the date of joining in the College i.e. 15.12.1986 by modifying the pay fixation done w.e.f. 01.04.2012 vide Pay Fixation Form, annexed as Annexure-7 to the writ application.
3. The brief facts giving rise to the present writ application are that the petitioner was appointed vide letter no. 262 dated 07.11.1986 on the post of Correspondence Clerk in a Private College run by the governing body namely Madan Ahilya College, Navgachhia, Bhagalpur. Later on, this College became constituent unit of Tilka Manjhi, Bhagalpur University,



Bhagalpur in the 4<sup>th</sup> phase. After becoming the constituent unit, Principal of the College, vide letter 24.02.1988, sent a list of Class-III employees working in the College, in which petitioner's name figured at serial no. 16 having date of joining as on 15.12.1986.

4. Learned counsel for the petitioner argued that from the affidavit filed by the University, before the Hon'ble Supreme Court in S.L.P. no. 6098 of 1997, by which the details of working staff in the College was provided, it appears that the name of petitioner figured at serial no. 71. He further submits that Memo no. B/301-396 dated 02.01.2006, issued earlier, in which it is stated that in compliance of the judgment/ order of the Hon'ble Supreme Court in Civil Appeal no. 6098 of 1997 dated 12.10.2004 and on the recommendation of the Committee constituted by the Syndicate, the Vide-Chancellor has absorbed the services of the Non-Teaching Staffs working in the 4<sup>th</sup> Phase Colleges, in which the name of the petitioner also figured. He next submits that in the pay fixation form issued by the Registrar, the petitioner's salary has wrongly been fixed from the date of absorption i.e. 01.04.2012 and not from the initial date of joining in the College. He also submits that the petitioner was earlier absorbed in the year 2006 and salary was released in



the scale of Rs. 3050-4590 of the Correspondence Clerk after absorption but no opportunity of hearing was given to the petitioner before modifying the pay fixation. He also submits that once the petitioner was absorbed in the year 2006 treating her year of joining as 1986, it cannot be changed or modified. Lastly, he submits that the petitioner relies upon a judgment rendered by this Court in the case of *Akhilanand Singh and others v. State of Bihar and others*, reported in **2018 (3) PLJR 1029**.

5. Learned counsel for the University argued that petitioner has concealed the fact that after her absorption vide Memo no. B/301-396 dated 02.01.2006, the issue of absorption was again raised before this Hon'ble Court and finally, travelled upto the Hon'ble Supreme Court in *S.L.P. (C) No. 12591 of 2010*, which was later on converted into *Civil Appeal no. 2703 of 2017*. During pendency of the Civil Appeal, the Hon'ble Justice S.B. Sinha (Retd.) Commission (hereinafter referred to as "the Commission") was constituted by the Hon'ble Supreme Court on 19.08.2013 for verifying the claim of the employees and submit a report. He next argued that the petitioner has also concealed the fact that she filed a Claim Petition bearing No. 743 of 2013 before the Commission seeking her absorption



on the post of Correspondence Clerk. The said Claim Petition was decided by the Commission with the finding that the petitioner may be absorbed in the services of the University w.e.f. 01.04.2012. The report of the Commission was affirmed by the Hon'ble Supreme Court vide judgment ***dated 31.08.2017***, passed in ***Civil Appeal no. 2703 of 2017 (Krishna Nand Yadav and others v. Magadh University and others)***. Lastly, it is submitted that in pursuance to the order passed by the said Commission, the petitioner was absorbed in services w.e.f. 01.04.2012 and accordingly, the University fixed the pay of the petitioner w.e.f. 01.04.2012.

6. I have heard learned counsel for the parties and have gone through the materials available on record. From perusal of the record, it appears that the petitioner filed a Claim petition no. 743 of 2013 before the Hon'ble Justice S.B. Sinha (Retd.) Commission for her absorption on the post of Correspondence Clerk. From the order dated 19.11.2015, passed by the Commission, it transpires that Justice Agrawal Commission, in its report, showed that in the category of Correspondence Clerk, three posts were recommended and the name of the petitioner did not find place therein. Thereafter, the petitioner filed an application before the Commission for



impleadment of Smt. Sunaina Singh contending therein that Sunaina Singh having been appointed as a Counter Clerk, her name could not have been shown against the post of Correspondence Clerk. The Commission arrived at the conclusion keeping in view the fact that there is hardly any difference between a Correspondence Clerk and a Counter Clerk and Justice Agrawal Commission has clubbed all the categories of Clerks as 'Assistants' and due to that, the absorption of Smt. Sunaina Singh as Correspondence Clerk cannot be held to be bad in law and accordingly, the application for impleadment of the petitioner was dismissed.

7. The Hon'ble Commission, taking note of the submissions made by Counsel appearing on behalf of the University that one Sri Gurudev Poddar has retired on 31.03.2012 and the claimants may be adjusted against the said vacant post, held that subject to the condition that the University has not filled up the said post and the Claimant has been working, she may be absorbed in the services of the University w.e.f. 01.04.2012 and allowed the Claim Petition to the abovementioned extent.

8. On the basis of the order of the S.B. Sinha Commission, the petitioner was absorbed on the post of



Correspondence Clerk w.e.f. 01.04.2012 vide Office Order no. 322 of 2018 dated 17.09.2018. The report of the Commission has attained finality after the same having been affirmed by Hon’ble Supreme Court in ***Krishna Nand Yadav (supra)***. The petitioner was absorbed in the services w.e.f. 01.04.2012. The claim of the petitioner for fixation of pay with effect from the date of joining i.e. 15.12.1986 is not acceptable.

9. Considering the aforesaid facts and discussions, I come to the conclusion that fixation of pay of the petitioner by the University w.e.f. 01.04.2012 is not arbitrary and unreasonable. Accordingly, the writ application stands dismissed.

**(Anil Kumar Sinha, J)**

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