

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11918 of 2014

Ram Kishore S/o Late Yugal Kishore Singh, resident of village- Ratanpur,
P.S.- Begusarai, District- Begusarai, presently posted as U.D. Assistant in
S.K. Mahila College, Begusarai Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna
3. The Three Men Committee through its Chairman, Chanakya Rastriya Vishwavidyalay, Administrative Block, Mithapur, Patna
4. The Vice- Chancellor, L.N. Mithila University, Kameshwar Nagar, Darbhanga
5. The Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga
6. The Finance Officer, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga
7. The Principal, S.K. Mahila College, Begusarai, District- Begusarai
... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh
For the University	:	Mr. Kinkar Kumar
For the State	:	Mr. Vipin Kumar Singh, AC to SC-22

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 16 19-04-2024 1. Heard learned counsel for the parties concerned.
2. The petitioner was appointed on a sanctioned post of Lab Boy (Physics) vide Memo No. 76 of 1973, dated 01.02.1978. He was promoted to the post of Routine Clerk/Counter Clerk in the pay scale of 353-765 w.e.f. 04.12.1986.
3. He was given benefit of Assured Career Progression (ACP). 1st ACP was granted to the petitioner with financial benefits on 09.08.1999. Thereafter, 1st MACP was granted to the petitioner with financial benefits on



01.01.2009 and 2nd MACP was granted to him with financial benefits on 01.04.2015.

4. The controversy in the present writ application revolves around the fixation of pay on the basis of the pay scale granted to the petitioner during his tenure in the University.
5. Learned counsel for the petitioner submits that the Statutory Committee of pay fixation of the Lalit Narayan Mithila University has fixed the pay of the petitioner after his retirement on 31.10.2018 for payment of financial and other retiral benefits at Rs. 72,100/- on the basis of pay scale of 9300-34300 and, thereafter, on the basis of 7th Pay Revision Scale.
6. The pay fixed by the Statutory Committee of the University is acceptable to the petitioner and there is no infirmity in the same. However, the petitioner is aggrieved by the pay fixation done by the Pay Verification Cell of the State Government, by which the pay of the petitioner has been reduced from Rs. 72,100/- to 62,200/-.
7. The petitioner has challenged the reduction in his pay fixed by the Pay Verification Cell by way of I. A. No. 01 of 2023 (Annexure-15).
8. Aforesaid interlocutory application has been allowed



vide order, dated 19.01.2024.

9. Learned counsel relies upon the decision of the Co-ordinate Bench of this Court, passed in CWJC No. 4722 of 2020 (Indranath Jha vs. The State of Bihar and Anr.), dated 13.04.2021, along with the decision of the Supreme Court, in the case of **State of Bihar v. Sunny Prakash**, reported in **2013 (3) SCC 559**, and submits that there is no requirement of verification of pay fixed by the Statutory Committee of the University, by the State Government through its Pay Verification Cell.
10. It has been held in the case of **Indranath Jha** (supra) that the pay fixation made by the Statutory Committee of the University is required to be followed by the University and directed the University to adhere to the determination of the pay fixation made by the Statutory Committee and to grant all the benefits available to the petitioner in terms of the decision of the Supreme Court and to ensure payment of entire dues.
11. A note of caution has also been given by the Court to the Vice Chancellor of the University and the Director, Higher Education, Government of Bihar, that in future, if the Court finds that similar attempt is made by them for defying the direction issued by this Court in the matter of



pay verification and pay fixation and non-compliance of the direction issued by the Supreme Court in **Sunny Prakash** (supra), the Court will fix the personal accountability of the Vice Chancellor of the University as well as the Director, Higher Education, Government of Bihar.

12. On the other hand, learned counsel for the State submits that it is not disputed that the petitioner was promoted to the post of Routine Clerk on 01.04.1985. The Pay Verification Cell vide its letter no. 15, dated 15.01.2024, sent the detailed report to the Education Department stating in Clause 3 and 4 that time bound promotion granted to the petitioner on the post of Routine Clerk w.e.f. 01.04.1985 was not admissible inasmuch as time bound promotion is granted to the non-teaching employees who were not given any financial benefits during their service. It has further been submitted that in Clause-4 of the said letter, it is mentioned that non-teaching employees are entitled to three financial upgradation during their entire service period; whereas, the petitioner has been granted four financial benefits during his service tenure and was not entitled for 2nd MACP. As such, the pay fixed by the University has been



reduced by the Pay Verification Cell.

- 13.** Learned counsel for the petitioner, in reply, submits that this Court vide its order, dated 12.02.2024, directed the State to bring on record documents in support of the statement made in Clause 3 and 4 of the letter, dated 15.01.2024, but no letter and/or document has been brought on record by the respondent-State in support of the statement made in Clause 3 and 4 of the aforesaid letter, dated 15.01.2024.
- 14.** Learned counsel for the petitioner placed the Bihar State Employee Service Condition (Assured Carrier Progression Scheme) (Amendment) Rules, 2006 (in short “ACP Rules, 2006), and submits that as per the ACP Rules, 2006, at Clause 1 (K), the senior scale/time bound promotion granted to the employees prior to 01.01.1996 shall not be treated as the financial progression under ACP Scheme.
- 15.** Learned counsel for the University argues that the University has fixed the pay of the petitioner, as per the admissible scale during his service period upon taking into account the time bound promotion and ACPs/ MACPs granted to him, through its Statutory Committee on 06.10.2023.



- 16.** The petitioner retired on 31.10.2018 and the Statutory Committee has fixed the pay of the petitioner at Rs. 72,100/- on the basis of 7th Pay Revision Scale, but the Pay Verification Cell of the State Government has reduced the pay of the petitioner from Rs. 72,100/- to Rs. 62,200/-. The University is obliged to follow the direction of the State regarding pay fixation. Subsequently, the pay of the petitioner was further reduced by the Pay Verification Cell from Rs. 62,200/- to Rs. 53,600/-.
- 17.** I have heard rival submissions of learned counsel for the parties.
- 18.** From the fact of the case, it emerges that the petitioner was given time bound promotion w.e.f. 01.04.1995 i.e. prior to 01.01.1996. As per the ACP scheme, the time bound promotion granted before 01.01.1996 shall not be treated as financial progression given to the employees under ACP Rules, 2006.
- 19.** It appears to the Court that after coming into force the ACP Rules, 2006, and adoption of the same by the University, the petitioner was given 1st MACP and 2nd MACP. The stand of the State that time bound promotion was granted to the petitioner w.e.f. 01.04.1995 was not admissible is not acceptable for simple reason that the



petitioner continued on the promotional post till his retirement and the respondents failed to produce relevant materials in support of their stand.

20. The petitioner got all the financial benefits attached to that post of Routine Clerk during his service period without any demur either from the University or the State Government.

21. This Court, vide its order, dated 12.02.2024, directed the respondent-State to bring on record the supporting documents and the rationale behind the stand of the State as mentioned in Clause 3 and 4 in the letter, dated 15.01.2024. However, the State failed to produce any supporting documents and/or the circular regarding its stand as specified in Clause 3 and 4 of the letter, dated 15.01.2024.

22. In the backdrop of the aforesaid discussion and the decision of this Court in **Indranath Jha** (supra), I come to the conclusion that the pay fixation done by the Statutory Committee of the University is correct and shall override the pay fixation done by the Pay Verification Cell of the State Government.

23. The petitioner shall be entitled to receive financial and monetary benefits as per pay fixation done by the Lalit



Narayan Mithila University at Rs. 72,100/- and not the pay fixation done by the Pay Verification Cell of the State Government.

24. In the result, this Court has no option but to quash the letter, dated 15.01.2024 (Annexure-R/C to the counter affidavit filed by the State).

25. The respondent-State as well as the University are directed to ensure payment of retiral dues and other benefits to the petitioner on the basis of pay fixed by the University.

26. This writ application is, accordingly, allowed.

(Anil Kumar Sinha, J)

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