

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10054 of 2022

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Razia Bano W/o Abdul Quaiyam, Resident of - Azhar Lane, Sattar Colony, Bariyatu Ranchi (Jharkhand), C/o Dr. Rita Gupta, R/o 1/45, Kedar, Kuti, Viveka Nand Marg, Opposite Giriraj Apartment, North S.K. Puri, Boring Road, Patna, retired as Associate professor in the subject of Urdu, B.S. College, Danapur, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Vice Chancellor, Magadh University, Bodh Gaya.
4. The Registrar, Magadh University, Bodh Gaya.
5. The Finance Officer, Magadh University, Bodh Gaya.
6. The Principal, B.S. College, Danapur, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh, Advocate
For the Respondent/s	:	Mr. Madhaw Pd. Yadaw, (Gp23)
For the Magadh University:	:	Mr. Sunit Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT

Date : 18-07-2024

Heard learned counsel for the parties.

2. The petitioner, who retired from the post of Associate Professor from B.S. College, Danapur which was at the relevant time affiliated to the Magadh University has filed this writ petition for a direction to the respondents to make payment of the difference of arrear of salary to the petitioner on account of revision pay as well as promotion of the petitioner from the post of Assistant Professor to the post of Associate Professor.

3. The respondent Nos. 3 to 5 have filed a counter affidavit wherein, in paragraph No. 7 it has been stated as under:-

“7. That it is humbly submitted that the Principal of B.S. College, Danapur, Patna had forwarded a bill claims of the petitioner



amounting to Rs. 46,21,948/- through his letter No. 779 dated 23.12.2019. The said bill claims of the petitioner was sent to the Pay Verification Cell of the State Govt. The Pay Verification Cell had examined the bill claims and found admissible amounting Rs. 46,56,241/- and sent the same recommendation to the university vide its 13.12.2020. Letter No. 1357 dated 13.12.2020.”

4. The respondent No. 2 has filed a counter affidavit as well as supplementary counter affidavit. In the supplementary counter affidavit filed by the respondent No. 2, in paragraph No. 4 it has been stated as under:-

“4. That the present writ application has been filed by the petitioner inter alia for issuance of an appropriate writ in the nature of Mandamus commanding and directing the respondent to make payment the difference of arrear or salary which is due on account of revision as well as promotion given to the post of Associate Professor; for payment of the same, the Principal of the college has made request giving specific details vide letter no. 779 dated 23.12.2019 but no payment is made till date.”



5. From perusal of the counter affidavit filed by the respondent Nos. 3 to 5, it appears that an amount of Rs. 46,56,241/- have been found to be admissible for payment to the petitioner. The liability of the University namely the respondent Nos. 3 to 5 have not been disputed by the learned counsel appearing for the University. He, however, submits that though the University is liable to pay the petitioner, the aforementioned amount but the University has not been able to pay to the petitioner due to paucity of funds.

6. Learned Counsel for the University by referring to paragraph No. 8 of the counter affidavit filed by the University also submits that since the University does not have the required fund to pay the petitioner the admissible due of Rs. 46,56,241/- the University has requested the State Government to make available the required fund to enable the payment to the petitioner.

7. On perusal of the supplementary counter affidavit filed on behalf of the respondent No. 2 – the Principal Secretary, Education Department, Govt. of Bihar, the relevant paragraph of which has been quoted hereinabove, reveals that an amount to the tune of Rs. 282 crore is lying unspent with the University. Hence, the Department by letter No. 3977 dated 30.10.2023 has directed the Registrar of the Magadh University to make payment from the said amount to the eligible employee with a rider that priority be given to cases covered by an order of the Court.



8. Be that as it may, since the liability to pay the petitioner’s arrears of salary has been admitted by the University and also in view of the fact that the paucity of fund cannot be a justifiable reason to deny the entitlement of the petitioner, this writ petition shall stand disposed of with a direction to the respondent Nos. 3, 4 and 5 to pay to the petitioner, an amount of Rs. 46,56,241/- being the arrear of salary of the petitioner, within a period of one month from the date of receipt of certified copy of the order, failing which the aforesaid amount shall carry an interest at the rate prescribed by the nationalized bank.

(Nani Tagia, J)

Siddharth
Sagar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.07.2024
Transmission Date	NA

