

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2483 of 2021

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1. Baliram Thakur, Son of Late Shyam Nandan Thakur, Resident of Village-Dhobgama, Police Station-Pusa, District-Samastipur.
 2. Vidya Devi, Wife of Late Kailash Sah, Resident of Village-Khaira, Police Station-Tajpur (Waini O.P.), District-Samastipur.
 3. Lal Babu Sah, Son of Late Lakhi Lal Sah, Resident of Village-Rahimabad, Police Station-Tajpur, District-Samastipur.
 4. Rajkishore Thakur, Son of Late Rambriksh Thakur, Resident of Village-Gouspur Sarsouna, Police Station-Bangra, District-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through Commissioner-cum-Secretary, Human Resources Department (Higher Education), Govt. of Bihar, Patna.
2. Director High Education, Govt. of Bihar, Patna.
3. The Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga through its Registrar.
4. The Vice-Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
5. The Finance Officer, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
6. The Principal, Dr. L.K. V.D. College, Tajpur, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ranjan Kumar, Adv.
For the State	:	Mr. Narendra Kumar, A.C. to G.P.-20
For L.N.M.U University :		Mr. Shailesh Kumar, Adv.
		Mr. Shahbaj Alam, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 11-07-2024

Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for the University.

2. By filing the present writ application, the petitioner has prayed for issuance of writ in the nature of mandamus and/or any other appropriate writ, order or direction directing and



commanding the respondents to grant the legal arrears of difference of salary from March, 1989 to February, 2020 to the petitioners in A.C.P./M.A.C.P., 7th revised pay scale with D.A. arrears and to pay all revised dues and consequential benefits with interest on delay.

3. Learned counsel for the petitioners submits that the petitioners are working as Peon, Mali, Night Guard and Gasman, respectively (non-teaching employees) in Dr. L.K.V.D. College, Tajpur, Samastipur under Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga and in the said University, the appointment/promotion was made in valid and legal manner against the sanctioned post.

4. The problem arose when the respondent Authority has fixed the full pay in A.C.P./M.A.C.P. 7th Revised Pay Scale to the petitioners in the light of State Government Sankalp No. 591 and 593 dated 06.03.2019 and all the petitioners are getting their salary per month regularly through University from March, 2020 to onwards in 7th revised pay scale, but the respondent authorities have not paid revised dues amount of arrears of difference of salary in A.C.P./M.A.C.P. 7th Pay Scale with D.A. arrear to the petitioners as yet.

5. Learned counsel further submits that many similar



employees of Dr. L.K.V.D. College, Tajpur, Samastipur have got his full arrears of difference of salary including D.A. arrears in A.C.P./M.A.C.P. pay scale, but the petitioners have been discriminated.

6. The principal of Dr. L.K.V.D. College Tajpur, Samastipur has sent the dues amount of difference of salary of the petitioners to the Registrar of L.N.M.U. Kameshwar Nagar, Darbhanga for payment vide Letter dated 28.02.2018 (Annexure-1 of the writ application), but the respondent Authority has not paid the admitted dues to the petitioner as yet. Even the petitioners have given several representations to the respondent Authority for payment of all arrears of difference of salary from March 1989 to February, 2020 in A.C.P./M.A.C.P. revised 7th Pay Scale with D.A. arrears and last representation dated 22.09.2020 along with dues chart of the petitioners was also given to the Registrar, L.N.M.U. Kameshwar Nagar, Darbhanga, but no action has been taken till date for payment.

7. A supplementary counter-affidavit has been filed on behalf of respondent nos. 3 to 5 stating therein that the pay slip of petitioner nos. 1, 3 & 4 were received earlier and the calculation of arrears of salary in respect of these three petitioners has been done and audited by the Internal Auditor of



the University. Upon calculations and recommendation of Internal Auditor of the University, it appears that the petitioner no.1 was given monetary benefits in excess of their entitlement and therefore, the total recoverable amount from petitioner no.1 is Rs. 87,154/-, whereas petitioner nos. 3 & 4 are liable to be paid Rs. 66,832/- and Rs. 8,67, 223/-, respectively.

8. Having regards to petitioner no.2, it is stated that pay-slip of the petitioner has been received in the University recently and a letter has been sent to the concerned College by the University (Annexure-R/B of the supplementary counter-affidavit) to make available the paid side statement of the petitioner for cancellation of salary as claimed. As soon as the paid side statement of the petitioner is made available to the University, the calculation shall be done accordingly.

9. Per contra, learned counsel for the petitioners relying upon the judgment of the Apex Court in the case of ***State of Punjab & Ors Vs. Rafiq Masih (White Washer) etc reported in 2015 (4) SCC 334*** submits that the petitioner no.1 has been given monetary benefits in excess due to unintentional mistakes committed by the concerned authorities, in determining the emoluments payable to him, therefore, the petitioner no.1 cannot not be held responsible for the same.



10. In view of the facts and circumstances of the case and the discussions made hereinabove, I am of the considered opinion that the petitioner no.1 is not liable for monetary benefits paid to him in excess by the concerned Authorities, thus the recovery of the amount, which is paid in excess would not be just and proper.

11. Considering the submissions advanced on behalf of the parties and the materials available on record, the concerned Authority is directed to pay the respective due amount along with consequential benefits to petitioner nos. 2, 3 & 4, as recommended/shall be recommended by the Internal Auditor of the University, within a period of three months from the date of receipt/production of a copy of this order and not to recover the amount, which was paid in excess to petitioner no.1.

12. With the aforesaid direction and observation, this writ application stands allowed.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.07.2024
Transmission Date	NA

