

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.953 of 2019

In
Civil Writ Jurisdiction Case No.13551 of 2019

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1. Kameshwar Singh Darbhanga Sanskrit University Kameshwar Nagar, Darbhanga, through its Registrar, Darbhanga.
 2. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
 3. The Registrar Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
 4. The Finance Officer Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.

... .. Appellant/s

Versus

The State of Bihar through the Principal Secretary, Higher Education Human Recourses Development, Bihar, Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Awadhesh Prasad Sinha, Adv
For the Respondent/s : Mr. Ashutosh ranjan pandey (AAG15)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 04-07-2024

None appears for the appellant-university.

Grievance of the respondent Rabindra Nath Jha is only to the extent of claiming salary for the period from June, 2012 to February, 2013 and from October, 2017 till date. The learned Single Judge has directed for payment of salary along with the interest at the rate of 9% per annum.

2. The present appeal is presented on behalf of the university. The grounds stated in assailing the order of learned



Single Judge are two-fold namely, services of respondent Rabindra Nath Jha has not been absorbed and the second reason is that State Government have not provided fund for disbursement of salary to the respondent. On these two counts, this Court cannot examine validity of the Single Judge order. If the respondent Rabindra Nath Jha is not a permanent employee, even in such circumstances, for having extracted work from a particular post, he is entitled to minimum pay scale attached to the post in light of the Hon'ble Supreme Court decision in the case of *State of Punjab & Others vs. Jagjit Singh & others* reported in *(2017) 1 SCC 148*.

3. Therefore, reason that he has not been absorbed could be overcome by the university in paying the minimum pay scale attached to the post. The second reason is that State has not provided fund. In that event, why the university has recruited more persons than the allotted vacancies or posts. Even for *ad hoc* appointment, they must have obtained necessary orders of the State Government. If there are no State Government orders, insofar as recruiting persons on *ad hoc* or temporary basis, in that event, university has to bear all the expenses for having recruited such of those persons on *ad hoc* basis or on temporary basis. After extracting work from a



particular person, it was bounden duty of the university to make payment according to the policy decision of the State Government/University. In the present case, if the respondent Rabindra Nath Jha was not absorbed against any particular post during the intervening period from June, 2012 to February, 2013 and from October, 2017 till a particular date, the same shall be examined by the University and proceed to calculate salary with reference to minimum pay scale attached to the post. If he is already absorbed against any particular post during the aforementioned period, in that event, the university has to undertake pay fixation of the respondent and calculate difference of salary and proceed to disburse the same within a period of 3 months from today.

4. To the above extent, order of the learned Single Judge stands modified.

5. L.P.A. stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

mcv/-

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