

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8912 of 2016

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Girija Prajapati son of Shri Ram Das Prajapati resident of House of Smt. Pratibha Thakur, Teacher's Colony, Purani Bazar, Jhajha, P.O. and P.S. Jhajha, Distt. Jamui.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur.
3. Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur.
4. Finance Officer, Tilka Manjhi Bhagalpur University, Bhagalpur.
5. Principal, D.S.M. College, Jhajha, Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gajendra Kumar Jha Mr. Bam Bahadur Jha
For the Respondent/s	:	Mr. Raghwanand Jha, GA-11 Mr. Pratik Kumar, AC to GA-11
For the University	:	Mr. Amit Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 21-10-2024

1. Heard learned counsel for the petitioner, learned counsel appearing on behalf of Tilka Manjhi University, Bhagalpur and the learned AC to GA-11.

2. The learned counsel for the petitioner submits that the instant writ application has been filed seeking quashing of the order dated 07.04.2012 (Annexure-1) passed by the Vice Chancellor of the University whereby representation dated 23.12.2010 filed by the petitioner in compliance of the order dated 28.09.2010 in CWJC No. 4450 of 2005, seeking restoration of his salary in the pay scale of Rs. 2280 to 4000/- as fixed on



01.01.1986 and thereafter to fix the consequential pay scale with effect from 01.01.1996 onward and to release the difference of salary till 31.05.2011 has been rejected.

3. The learned counsel for the petitioner submits that petitioner was appointed as Typist-cum-Librarian in DSM College, Jhajha, an affiliated college of the University, in the pay scale of Rs. 220-315 on 23.03.1976, the college became a constituent college of the University on 19.04.1982. It is next submitted that petitioner passed his B.A. examination in 3rd Division in the year 1977, thereafter passed his M.A. examination in the year 1980 and obtained Bachelor of Library Science degree in 2nd Division from the University on 17.01.1983. It is further submitted that Vice Chancellor of the University issued order dated 10.05.1984 whereby petitioner was absorbed on the post of Librarian with effect from 13.08.1982 in the scale of Rs. 220-315.

4. The learned counsel for the petitioner submits that thereafter the State Government issued an order contained in Memo No. 446 dated 08.05.1985 (Annexure-3) by which the scale of Librarian, possessing qualification of bachelor's degree or diploma in library science was revised from Rs. 220-315 to Rs. 850-1360 with effect from 01.04.1983. It is submitted that in pursuance of the Memo dated 08.05.1985, the Principal of the



college was directed by the competent authority of the University to send details of the petitioner along with others, accordingly, the Principal of the college sent the details, but the pay of the petitioner was not fixed in the revised scale of Rs. 850-1360. It is submitted that the Government subsequently modified the eligibility regarding minimum qualification for appointment to the post of University Librarian, Deputy Librarian, Assistant Librarian and College Librarian to be master degree in Library science with first or high second class, as was communicated to all concerned by Officer on Special Duty to the Hon'ble Governor by Letter dated 15.07.1986 (Annexure-5), however, the last para of letter dated 15.07.1986 recorded- *"The existing incumbents to these posts who hold the qualification as prescribed by the University before this Statute came into force, shall be deemed to be qualified for the posts they are holding."* The learned counsel submits that since petitioner was absorbed in the service with effect from 13.08.1982 vide order dated 10.05.1984 (Annexure-3) as such service of the petitioner was not disturbed after issuance of letter dated 15.07.1986. It is next submitted that the pay scale of the petitioner was fixed in the scale of Rs. 850-1360 in compliance of the order dated 08.05.1985 (Annexure-5) by the Registrar of the University on orders of the Vice Chancellor, but his arrear salary



was not paid from 1980 i.e. since the date he had passed his M.A. examination till June, 1990, as would manifest from the letter dated 31.05.1990/22.06.1990 (Annexure-6). It is submitted that the Vice Chancellor thereafter issued notification dated 21/23.07.1990 (Annexure-7) whereby salary of the petitioner was fixed in the pay scale of Rs. 1640-2900 with effect from 01.01.1986, however arrear of salary on account of pay fixation prior to July, 1990 was not paid.

5. The learned counsel submits that the Central Government revised the pay scale of Librarian along with teachers of the University and colleges with effect from 01.01.1986 which was communicated to all concerned through notification dated 22.07.1988 (Annexure-8) by which pay of college Librarian was revised to Rs. 2200-4000/-, commonly referred as UGC scale, the Central Government after enhancing the pay scale, agreed and paid 80% of the additional expenditure incurred by the State Government on account of the said revision for the period 01.01.1986 to 31.03.1990. It is next submitted that the State Government issued letter dated 13.04.1991 (Annexure-12) whereby it was communicated that as per recommendation of the 5th Pay Revision Committee, the pay scale of the teaching and non-teaching staff of the University and colleges is revised and the pay



scale of the Librarian was revised to Rs. 2000-3800/-, thereafter the State Government issued another resolution dated 10.05.1991 (Annexure-9) communicating to all concerned that Librarian would be paid the scale recommended by UGC provided they possess the qualification fixed by the UGC. The learned counsel next submits that pursuance to the State Government decision dated 13.04.1991, the Registrar of the University issued office order dated 19.06.1991 (Annexure-13) intimating all concerned that revised pay scale fixed as per recommendation of the 5th PRC, shall not be provided to those employees who have not received the time bound promotion, thereafter, the Registrar issued office order dated 04.10.1991 (Annexure-14) communicating that Vice Chancellor has been pleased to allow the benefit of time bound promotion to Library staff and others with effect from 01.01.986 in terms of the letter dated 13.04.1991 issued by the State Government.

6. The learned counsel submits that after the order dated 04.10.1991 (Annexure-14) was issued, thereafter the Registrar of the University, on direction of the competent authority, issued office order dated 04.12.1991 (Annexure-10) whereby it was communicated to all concerned that the Vice Chancellor has directed to implement the resolution dated 10.05.1991 (Annexure-



9). The learned counsel submits that in compliance of the order dated 04.12.1991 (Annexure-10), a pay fixation committee was constituted, the Committee after examining the issue recommended to the Vice Chancellor to implement the UGC pay scale of Rs. 2200-4000/-, the Vice Chancellor approved the recommendation and the Registrar vide his Letter dated 14.09.1992 (Annexure-11) communicated to all the concerned and accordingly pay of the petitioner was fixed in the scale of Rs. 2200-4000 on 21.12.1991 with effect from 01.01.1986. The learned counsel submits that petitioner does not possess the letter dated 21.12.1991. It is next submitted that thereafter the petitioner started receiving the salary in the scale of Rs. 2200-4000/- from September, 1992 to May, 1999.

7. The learned counsel for the petitioner submits that a three-member Committee was constituted by the University in the year 1999 and the team visited the college and without seeking any explanation from the petitioner or giving him any opportunity of hearing recommended to reduce the scale of petitioner from Rs. 2200-4000 to 2000-3800, accordingly, the pay scale of the petitioner was reduced to Rs. 2000-3800 from June, 1999, at this stage, the learned counsel appearing on behalf of the University submits that the said reduction in scale was made in pursuance of



the letter dated 13.04.1991 (Annexure-12) issued by the State Government.

8. The petitioner, accordingly, moved before the Vice Chancellor and the Registrar to restore his pay scale to Rs. 2200-4000 by filing his representation dated 04.12.2019, but instead of restoring the pay scale, the petitioner was intimated by the Principal of the college by his letter dated 18.10.2000 (Annexure-2) that Vice Chancellor has reduced the basic pay of the petitioner initially to Rs. 2975 and then to Rs. 2210, on the recommendation of Pay Inquiry and Fixation Committee, thereafter petitioner again filed a representation dated 24.01.2001 (Annexure-16), seeking restoration of his salary in the pay scale of Rs. 2200-4000/-

9. The learned counsel for the petitioner submits that while his representation was pending consideration when the Registrar of the University issued Notification dated 29.08.2002 (Annexure-17), on orders of the competent authority wherein it was clarified that staff appointed up to 15.08.1976 and decision taken with respect to them by the competent authority prior to 15.08.1976 shall continue after 15.08.1976 and they will get the benefit of pay fixation, further it was clarified vide Para 5 of the notification dated 29.08.2002 that pay anomaly will be sorted out



in terms of the order passed in CWJC No. 3562 of 1998 (L.N. Mithila and College Storekeeper Vs. State of Bihar & Ors.) and vide Para-8 of the notification it was clarified that pay of Librarian and PTs shall be fixed in revise scale recommended by UGC and State Government and vide Para-10 of the notification it was further clarified that employees would be given time bound promotion who became eligible in between 01.04.1981 to 31.12.1995 and their pay fixed in view of the benefit of such time bound promotion. It is submitted that petitioner again on 28.08.2003 represented before the competent authority to restore his salary in the pay scale of Rs. 2200-4000/- after issuance of the notification dated 29.08.2002 (Annexure-18), but the same came to be rejected by the Vice Chancellor by an order dated 28.08.2003 against which the petitioner moved this Court by filing CWJC No. 4459 of 2005 which was disposed of by an order dated 28.09.2010 (Annexure-19) directing the petitioner to represent before the competent authority with all the relevant facts, accordingly, the petitioner, in compliance of the order dated 28.09.2010 in CWJC No. 4459 of 2005, filed his representation dated 23.12.2010 (Annexure-20) wherein the petitioner recorded the entire facts as recorded hereinabove and also pleaded that some of the similarly situated employees like the petitioner have been granted the



aforesaid pay scale, but then petitioner has been discriminated. The learned counsel submits that the name of the similarly situated employees finds mention at Para-32 of his representation dated 23.12.2010.

10. At this stage, the learned counsel appearing on behalf of the University submits that no doubt name of similarly situated employees have been given at para-32 of the representation of the petitioner but then the representation does not even remotely record with regard to their qualification that as to whether they were having the same qualification which the petitioner was having when he was appointed as Librarian in the college and subsequently absorbed.

11. The learned counsel next submits that his representation dated 23.12.2010 came to be rejected by an order dated 07.04.2012 passed by the Vice Chancellor of the University which is impugned in the instant writ application.

12. The learned counsel for the petitioner, after making his submissions on facts, further submitted that a supplementary counter affidavit has been filed by the Deputy Secretary, Education Department, Patna, in compliance of the order dated 27.08.2024 wherein at para 8 of the supplementary counter affidavit, it has been pleaded that how in pursuance of issuance of



notification/circular by the State Government, the pay scale of college Librarian has been revised from time to time. It is next submitted that at Para 9 it has been pleaded that petitioner is entitled for the pay scale prescribed to the college Librarian as referred in Column-4 of the aforesaid chart, as pleaded at Para-8 of the supplementary counter affidavit.

13. The learned counsel for the petitioner further submits that no doubt petitioner is employee of the University, but then his salary is paid by the Grants released by the State Government to the University and sicne the State Government in its supplementary counter affidavit at Para-9 placing reliance on the chart recorded at Para-8 has specifically stated that petitioner is entitled to the pay scale prescribed to the college Librarian as refereed in Column-4 of the aforesaid chart, as such, the writ application be disposed of with a direction to the competent authority to act strictly in accordance with Para-9 of the supplementary counter affidavit filed on behalf of the State.

14. The learned counsel appearing on behalf of the University and the State also does not rebut the said submission of the learned counsel appearing on behalf of the petitioner.

15. After hearing the learned counsels for the parties, the writ application is disposed of with a direction to the petitioner to move before the appropriate authority for seeking relief in terms of



Paras 8 and 9 of the supplementary counter affidavit filed on behalf of the State i.e. Deputy Secretary, Education Department, Patna in accordance with law.

16. It is made clear that in the event if any representation is filed by the petitioner within a period of three weeks from today before the competent authority, the authority shall dispose of the representation within a period of three months thereafter. It is further made clear that if petitioner is entitled to the pay scale prescribed to the college Librarian as referred in Column 4 of the chart as recorded at Para-8 of the supplementary counter affidavit, the same shall be given, without being influenced by the order dated 07.04.2012 passed by the Vice Chancellor (Annexure-1), but if for any reason the petitioner is not entitled for the said pay scale as referred in column 4 of the chart, in that event a reasoned order shall follow.

17. Accordingly, the instant writ application is disposed of.

(Satyavrat Verma, J)

Rishabh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22.10.2024
Transmission Date	N/A

