

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3169 of 2020

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Veena Jha W/o Dr. Murari Kumar Jha Resident of 1/1 Hemchhaya Apartment,
Anilsur Path, Uliyan, Kadama Jamshedpur, East Singhbhum.

... .. Petitioner/s

Versus

1. Nalanda University Through Vice Chancellor, Rajgir, District- Nalanda, Bihar- 803116.
2. Vice Chancellor Nalanda University, Rajgir, District- Nalanda, Bihar- 803116.
3. The Registrar Nalanda University, Rajgir, District- Nalanda, Bihar- 803116.
4. Union of India Through Secretary to the Government of India, Ministry of External Affairs, South Block, Central Secretariat, New Delhi- 110001.
5. The Secretary Government of India, Ministry of External Affairs, South Block, Central Secretariat, New Delhi- 110001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sharukh Alam, Adv Md. Harun Quareshi, Adv Mr. Santanu, Adv
For the Respondent/s	:	Mr. Anjani Kumar, Sr. Adv Mr. Amit Kumar, Adv

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV

Date : 10-12-2024

Heard Mr. Sharukh Alam, learned counsel for the petitioner and Mr. Anjani Kumar, Sr. Counsel, assisted by Mr. Amit Kumar, learned counsel on behalf of the Nalanda University (hereinafter referred to as the 'University').

2. Petitioner has approached this Court for the following reliefs:-

(i) For commanding the concerned respondents to give due reasons for non-renewal for her contract and take decision based on due process and which are not seen to



be arbitrary and vindictive.

(ii) For commanding the concerned respondents to release/remit the dues of the petitioner which is pending with the respondent no.1 to 3 since April, 2019.

(iii) For any other relief for which the petitioner is found entitled to be in the facts and circumstances of the case.

3. Petitioner has filed the present application against the illegal withholding of her rightful dues for work done in complete violation of the terms of employment. The terms and conditions of the offer letter, contract and Nalanda University Act, Statutes, Ordinances as amended/ notified from time to time were applicable to her employment. (Annexure-1 of the writ application).

4. The Nalanda University is a University created by an Act of Parliament, the Nalanda University Act, 2010 as an international university of national importance under the aegis of the Ministry of External Affairs, Government of India from which it receives the bulk of its institutional and operational funding. The Nalanda University (*hereinafter referred to as the "University"*) is located at the historic site of Nalanda at Rajgir in the State of Bihar.

5. It is submitted by the learned counsel for the petitioner that the petitioner was an employee on contract as Laboratory



Assistant at the School of Ecology and Environment Studies of the University since 10.05.2016 on a year to year contract. The terms and conditions of the Offer Letter, Contract and the University Act, Statutes, Ordinances as amended/ modified from time to time were applicable to her employment.

6. Petitioner's husband, namely, Dr. Murari Kumar Jha, was also employed with the respondents as an Assistant Professor on full time employment with the School of Historical Studies on a tenure track position pursuant to Faculty Employment Contract dated 24.11.2015. The 'tenure' was to be reviewed after a period of three years on 01.01.2018. However, the period of 'tenure review' was extended until 31.12.2018. The 'tenure track' would be converted to a 'tenured' or 'permanent' position after the participatory and objective review after the appointed time. During the said period, the petitioner's husband was offered a 10 month residential fellowship as a visiting fellow at Weatherhead Initiative on Global History, Harvard which the petitioner's husband undertook after taking necessary NOC from the respondents.

7. Petitioner's husband left for Harvard while the petitioner stayed at Rajgir, Nalanda with her daughter. While, the husband of the petitioner was away, his 'tenure track contract' was



illegally terminated on 18.02.2019 by the respondent no.1 without even adhering to the prescribed procedure of law. On 27.03.2018, a memo was assigned to the petitioner by the competent authority alleging that she was not performing her duties with devotion and she lacks commitment towards the job assigned to her.

8. It is further submitted that the said memo lacked details about what was viewed as lack of devotion from the part of the petitioner. The petitioner responded to the said memo highlighting her credentials and commitment to the job at hand. She continued to carry on with her duties with dedication and her contract continued getting renewed. (Annexure-2 of the writ application). After the termination of her husband's contract, petitioner's contract which was a year to year contract was renewed on 18.04.2019 up till 14.05.2019 i.e. only for a period of approximately one month. The respondents vide order dated 08.05.2019 communicated that the petitioner would be relieved on 14.05.2019 and was directed to complete her No Dues Certificate and relieving process as per the rules. (Annexure-3 of the writ application).

9. Accordingly, she obtained No Dues from various Departments in the form of necessary endorsements on the No



Dues Certificate. Her No Dues Certificate does not record any dues on her name. (Annexure-4 of the writ application). However, the respondent no.1 withheld the legitimate dues of the petitioner for work done, for the reasons best known to them. Till the filing of the present case, petitioner has not received any communication from the respondents as to why her legitimate dues have been withheld.

10. The Finance Department of the University made the following remark on the petitioner's No Dues Certificate- "***Due of Dr. Murari Jha for electricity and other amounts to Rs.2,41,378/- and advance unsettled for Rs.73,500/-***"

11. It is further submitted on behalf of the petitioner that the alleged dues of petitioner's husband cannot be the basis of withholding the rightful dues of the petitioner. Petitioner and her husband being two different individuals taxed separately and also rendered different kinds of services under separate contracts with the University.

12. The University refused the petitioner's plea to grant extension of University Accommodation in which the petitioner was residing with her daughter while her husband was away for pursuing a 10 month residential fellowship in Harvard (after obtaining necessary NOC from the University) citing that the



accommodation was allotted to her husband.

13. It is further contended that the respondent no.1 to 3 found it fit to treat the petitioner and her husband as separate entities for the purposes of accommodation, her husband's dues are now being possibly adjusted against her. It is now expected that the same logic be applied all heads be it accommodation or accounts. (Annexure-5 of the writ application).

14. Petitioner wrote various e-mails dated 06.05.2019, 07.05.2019 and 10.05.2019 to the different functionaries of the University requesting releasing of her dues but the same was not done. Petitioner also caused a legal notice dated 01.11.2019 to be sent through her lawyers demanding the legitimate dues of the petitioner. Even then also, the respondents concerned remained unresponsive. (Annexure-6 and 7 of the writ application).

15. It is further submitted that the concerned respondents in withholding the legitimate dues of the petitioner reflects an egregious disregard by the respondent no.1 for the rule of law and for the binding terms of the contract between the parties. The act of the respondent no.1 to 3 in attempting to adjust the alleged dues of the petitioner's husband qua the petitioner smacks of arbitrariness, high-handedness and malice in law and



therefore, violative of the Right to Equality, the Right Against Discrimination and the Right to Equal Opportunity enshrined in Articles 14, 15 and 16 of the Constitution of India.

16. The respondents have withheld the legitimate and rightful dues of the petitioner without communicating any reasons for such actions whatsoever in express violation of Principles of Natural Justice, and is therefore liable to be directed to release the dues of the petitioner.

17. He relied upon the Judgment of the Hon'ble Apex Court in the case on ***S.N. Mukherjee vs. Union of India (1990) 4 SCC 594 @ 614***. In paras 39-40, the Constitution Bench of the Apex Court laid down:

“39... Keeping in view the expanding horizon of the principles of natural which govern exercise of power by administrative authorities...

40... For the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to record the reasons for its decision.”

18. The constitutional obligation to supply cogent reasons while taking an administrative decision, especially one which



has important civil consequences for a person, lies at the heart of the right to due process and natural justice enshrined in the Constitution of India.

19. It is further submitted that the arrangement was solely between Dr. Murari Kumar Jha and the respondent University. His family were not separately granted any right or entitlement or liability. The final notice of eviction dated 21.05.2019 was also issued in the name of the allottee Dr. Murari Kumar Jha. It is equally true that his wife and daughter who were residing in the said staff quarter had to bear the brunt of it in his absence.

20. Petitioner's dues comprise of salary for the month of April, 2019 and pro-rated salary for the month of May, 2019.

Computation of Claims:-

Salary of April: Rs.46,400/-

Pro rate salary of May, 2019 for 14 days: Rs.21,653/-

Total Arrears of Salary due: Rs.68,053/-

Interest thereon from the due date of salary till payment.

Interest @ 8% p.a. as on date viz. 5 years 4 months 18 days or 64 months 18 days ~ 64 months comes to Rs.29,036/-

Total amount with interest : Rs.97,089/-.

21. It is further submitted that the University is making a completely illegal and irrational arguments that the alleged



electricity dues on the allotted quarter will be set off against the petitioner's admitted rightful dues. The petitioner cannot be made liable for contractual liabilities of her husband. There is no privity of contract qua usage of accommodation and its benefits between the petitioner and the respondent University.

22. It is a settled point of law that the husband and wife are separate legal entities and the alleged contractual dues of the husband cannot be settled against the rightful claims of the wife. Additionally, there is no rule cited by the Respondents to foist liability on the petitioner.

23. It is lastly submitted by the learned counsel for the petitioner that the husband of the petitioner has also filed a writ application before this Court bearing C.W.J.C. No.3979 of 2020 challenging the termination of services and also for the pending dues which has not been paid to him. And if any dues is pending in the name of the petitioner shall be adjusted from the claim of her husband.

24. A counter affidavit has been filed on behalf of the University. It is submitted by Mr. Anjani Kumar, learned Senior Counsel that the petitioner was appointed as Laboratory Assistant at the University on short term contract initially for a period of one year on consolidated monthly salary of



Rs.40,000/- per month w.e.f. 10.05.2016. (Annexure-R/1 of the counter affidavit).

25. Her contractual short term on consolidated pay was extended for further 11 months w.e.f. 12.05.2017 given that her appointment was purely temporary in nature, she was issued an Offer Letter dated 12.05.2017 stating the same provisions with mandatory break. Mrs. Veena Jha accepted the offer and joined w.e.f. 12.05.2017. (Annexure- R/2 of the counter affidavit).

26. It is further submitted that the petitioner was issued a memo by the University dated 27.03.2018 on her non-performance. She was warned to be more careful and perform her duty assigned to her with full devotion, integrity and transparency. (Annexure-R/3 of the counter affidavit). Her contractual short term on consolidated pay was extended for further one year with mandatory break w.e.f. 15.04.2018 vide Office Order No.NU/Admn/38/2015-16/Vol-I/214 dated 19.03.2018. (Annexure-R/4 of the counter affidavit).

27. It is further submitted that present semester was coming to close in May and her contract for short term on consolidated pay was extended with mandatory break for further one month up to 14.05.2019 vide Office Order No.NU/Admn/38/07/2016-17/362 dated 18.04.2019.(Annexure-R/5 of the counter



affidavit). Subsequently, the petitioner was informed through an Office Order vide NU/Admin/7/2016-17/370 dated 08.05.2019 that she will be completing her short term contract and she was advised to complete her No Dues formalities and complete the relieving process. (Annexure-R/6 of the counter affidavit).

28. Petitioner was issued No Dues Certificate format by the University to obtain the No Dues from various sections vide NU/Admin/07/2016-17 dated 13.05.2019. (Annexure-R/7 of the counter affidavit). Petitioner did not submit the No Dues certificate till date irrespective of the fact that she was given enough time to complete the formalities; so that her salary could be paid. Petitioner, irrespective of submitting the No Dues Certificate, sent a legal notice through her advocate dated 01.11.2019 seeking release of her dues. (Annexure-R/8 of the counter affidavit).

29. The University replied to the legal notice sent through its advocate dated 02.12.2019 citing the fact that it is the primary responsibility of an employee to clear the outstanding dues and submit a No Dues Certificate duly endorsed by all the sections of the University. Petitioner has not submitted the No Dues Certificate to the University. She left the University without completing the mandated No Dues procedures. When the No



Dues Certificate is not submitted to the University, then through legal notice she cannot claim for clearance of dues.

30. It is further submitted by learned Senior Counsel that the petitioner was staying in the accommodation provided by the University in the name of Dr. Murari Kumar Jha, Assistant Professor on contract on a monthly payment of nominal fee towards license fee, maintenance fee and electricity charges as the University does not charge any rent from the faculty for providing the accommodation.

31. The term of employment of Dr. Murari Kumar Jha came to close in December 2018 and the term of employment of the petitioner came to close in May 2019. After completion of the term of Murari Kumar Jha, the University allowed him to retain his official quarter since his family was staying there from August 2018 till May 17, 2019 while he was away. The petitioner, being his wife, was staying in the same accommodation and enjoying the services as a beneficiary from December 2018 till May 2019. She has enjoyed such accommodation beyond her entitlement, so she has to bear the various charges attached thereto, which is minimum and considerate approach, otherwise she would have been liable to pay market rent.



32. He further submits that the University did not disturb the petitioner and allowed her to stay in the quarter irrespective of the fact that her husband was ceased to be on the rolls of the University w.e.f. December 2018 and not paying the monthly license fee, electricity charges etc. and the amount stands at Rs. 47,872/- which needs to be paid to the University. While the petitioner was still in employment and staying in the accommodation, it is incumbent on the part of the petitioner to make arrangement to clear the dues and pay the fees.

33. While the petitioner was staying in the campus and she was a beneficiary of the accommodation and benefited from the services provided by the University, she was expected to comply with the norms of the University to get the no dues.

34. It is further submitted that the Finance Department of the University made a remark on the petitioner's No Dues Certificate- "*Due of Dr. Murari Jha for electricity and other amounts to Rs.2,41,378/- and advance unsettled for Rs.73,500/-*". The said accommodation was allotted to Dr. Murari Kumar Jha i.e. the husband of the petitioner and the said facilities were used by the petitioner while being in employment under the University for an another contract.

35. When the University was considerate enough to allow



petitioner's husband remain in his official quarter since his family was staying there from the year 2018 till May, 17, 2019, while the petitioner's husband was away, when the contract of the petitioner's husband was not renewed and the University has not given any notice or intimation to the petitioner stating that she has to pay the license fee, electricity charges and other related amounts against the allotted quarter. Further, it is an admitted fact that the due amount is pending on the part of the the petitioner's husband before the University and such dues must be deducted from the account of the husband of the petitioner.

36. Considering the facts and circumstances of the case, the petitioner is entitled for the arrear of salary of Rs. 68,053/- at the rate of interest at the rate of 4% per annum.

37. The University is directed to pay the due amount of Rs.68,053/- along with the interest at the rate of 4% per annum. However, this interest rate will be calculated from the date the salary became due until the payment is made to her.

38. The respondent is further directed to issue a No Dues Certificate to the petitioner without any remarks from the Finance Department of the University and to settle her dues as previously directed within a maximum period of three months



from the date of receipt/production of a copy of this order.

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

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	03.10.2024
Uploading Date	10.12.2024
Transmission Date	NA

