

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1232 of 2020

Dr. Kamaluddin Khan S/o Abdul Kalam Khan Resident of Nisat Building,
Pattlvar ki Mashid, Dargah Road, P.O.-Mahendru, P.S.-Sultanganj, District-
Patna at Present Working as Assistant Professor at Maharaja Law College,
Ara and Dean Faculty of Law, Veer Kunwar Singh University Ara.

... .. Petitioner/s

Versus

1. The State of Bihar represented through its Principal Secretary, Department of Higher Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Higher Education, Government of Bihar, Patna.
3. The Additional Secretary, Department of Higher Education, Government of Bihar, Patna.
4. The Director, Department of Higher Education, Government of Bihar, Patna.
5. The Veer Kunwar Singh University, Arrah
6. The Vice Chancellor, Veer Kunwar Singh University, Ara.
7. The Registrar, Veer Kunwar Singh University, Ara.
8. The Hon'ble Chancellor of Universities, Bihar State of Bihar.
9. The Bar Council of India through its Secretary, New Delhi
10. The Chairman, Bar Council of India, New Delhi
11. The Legal Education Committee of Bar Council of India, New Delhi through its Secretary

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Brisketu Sharan Pandey, Advocate Mr.Sanjay Kumar, Advocate
For the State	:	Mr.Vinay Kumar Mishra, AC to AAG 15
For the Resp. Nos.5 to 7	:	Mr.Rajesh Prasad Choudhary, Advocate
For the Resp. No.8	:	Mr.Janardan Prasad Singh, Sr. Advocate Mr.Rajiv Ranjan Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

6 22-07-2024 Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ application has been filed for the



following relief/s:-

“(I) For setting aside the order published vide memo no. legal/66/19-2810/establishment/19 dated 11.10.2019 Vice Chancellor, Veer Kunwar Singh University, Arrah, Bihar.

(II) For setting aside the letter issued vide memo no.15/M-1-195-2014/1837 dated 19.08.2019 passed/communicated by the Director, Higher Education to the Vice Chancellor, Veer Kunwar University, Arrah, Bihar.

(III) For directing the respondent authorities to make payment of petitioner’s current salary who is posted as Full Time Lecturer in Veer Kunwar Singh University, Arrah as per terms of his appointment and benefits attached/acrued to his post time to time.

(IV) For directing the respondent State and University that payment of petitioner’s current salary be made in the pay scale payable as per 6th pay revision @ Rs.15600-39100/-, pay band Rs.16720 & Grade Pay-Rs.6000/- Basic pay Rs.36640/- plus D.A. Rs.41292/- HR 2664 medical Rs.200/- i.e. total per month Rs.70796/-.

(V) For directing the respondent authorities to make payment of difference of arrears of salary of the petitioner forthwith since 17.06.2009 till date.

(VI) For that respondents be directed to pay the entire arrears of salary along with



compound interest @ 12% p.a.

(VII) For granting any other relief or reliefs for which the petitioner is entitled for.”

3. Learned counsel for the petitioner submits that an advertisement bearing no.01/2008 was published by the Veer Kunwar Singh University for appointment on the post of Lecturer in Law (full time & Part time) in the pay scale of Rs.8000-13500/-. Pursuant to the said advertisement, the petitioner applied for the said post (Annexure-P/3 of the writ petition). An interview was conducted and petitioner was selected by the Committee. The petitioner was appointed by the Committee, in light of the order passed in LPA No.226/2009. On the recommendation of the Selection Committee, the Vice Chancellor has appointed several persons as full time/part time Lecturers in Law. In the said list, the name of petitioner is at serial no.1 as Full time post in the Maharaja Law College, Ara (Annexure-P/6 of the writ petition). Thereafter, petitioner joined on 17.06.2009 and was granted pay scale of Rs.8000-13500/- (Basic-8000, D.A.-8320, HRA-600, M.A. 50/-), total Rs.16970/- per month and he received the said salary from 17.06.2009 to January, 2012 (Annexure-P/8) in the Allahabad Bank account. Later on his service book was perused and on the basis of pay revision, petitioner's salary was revised to the fixed amount of



Rs.21,600/- in addition to his DA, HRA, Medical and Annual increment and it was to be paid from the same fund of the University by which payment to the part time Lecturers were being made. Later on, the said order was recalled (Annexure-P/10).

4. By order of the Vice-Chancellor, the Registrar of the said University, in exercise of the power conferred under section 26, sub-section 5 and clause (i) of the Bihar State Universities Act, 1976 as amended up-to date, was pleased to appoint the petitioner, full time lecturer, Maharaja Law College, Ara as Dean faculty of law with immediate effect for a period of two years or the date of superannuation whichever is earlier (Annexure-P/11 and P/12).

5. The matter was disputed when the consolidation money was sent by the State to the Maharaja Law College and the Veer Kunwar Singh University jointly. The Registrar of the Veer Kunwar Singh University then sent a letter to the Director, Higher Education to clarify the bifurcation of salary among the employees as the Authority was facing difficulties in payment of the salary and stated that Maharaja Law College has six part time teachers and one full time teacher i.e. the petitioner, so they requested to kindly send salary of all employees separately.



6. Pursuant thereto, the Director, Higher Education, Government of Bihar, Patna asked for a clarification regarding appointment of the petitioner on the regular post (Annexure-P/16 and Annexure-P/18). The Registrar of the University sent all the documents and clarified the matter (Annexure-P/19) regarding the petitioner.

7. The petitioner filed several representations before the concerned Authorities but till date no order has been passed. Thereafter the petitioner moved before this Court in C.W.J.C. No.1033 of 2019, which was disposed of vide order dated 27.02.2019 by a co-ordinate Bench of this Court, with a direction to file a representation before the concerned Authority for redressal of his grievance and the Authority was directed to pass an order within eight weeks of receipt of the representation. The petitioner filed representation accordingly but even after receipt of the representation, no order was passed.

8. Thereafter, the petitioner filed a contempt petition. During pendency of the contempt petition bearing M.J.C. No.2131 of 2019, the concerned Authority disposed of the representation of the petitioner by Annexure-P/25A, stating therein that the petitioner is only entitled for Rs.1000/- per class and maximum salary of Rs.25,000/-.



9. A counter-affidavit is filed on behalf of the University. The University has fairly stated in the counter-affidavit that appointment of the petitioner was made on full time Law Lecturer.

10. The State Government has also filed a counter-affidavit and supplementary counter-affidavit, in which it is stated that the Maharaja Law College is neither a constituent unit nor affiliated unit of the University. It is further stated that as per the University, there is no law faculty/department exists in the University, thus, the whole procedure of appointment and notification is vitiated in the eye of law. The University is treating all the appointment including the appointment of petitioner, made in the year 2009 as void *ab initio* after examining the records related with the appointment made in the year 2009.

11. A rejoinder to the counter-affidavit has been filed on behalf of the petitioner, in which, it is stated that there is compliance of section 57 (1) of the Universities Act while conducting the selection of the petitioner. It is stated that it is apparent from the note sheet made available to the petitioner that the department had the information regarding the college (old faculty of Maharaja Law College being constituent unit of



Veer Kunwar Singh University) and the post already being sanctioned. In fact, the Officer on Special Duty has made a categorical noting on 06.04.2018 as to under what circumstances the petitioner is not being paid the approved pay scale of Rs.8000-13500 is to be clarified from the University. The date was fixed on 19.04.2018 for production of remaining document which was handed over to the department by the University relating to the petitioner.

12. Considering the aforesaid facts and circumstances of the case and the rival submissions of the parties, this Court is of the view that it is an admitted fact that the petitioner was appointed on the full time/regular and sanctioned post and it is not a disputed fact. Accordingly, the petitioner is entitled for grant of all the consequential benefits.

13. The concerned Authorities are directed to grant all the consequential benefits to the petitioner.

14. The present writ application is hereby allowed.

(Anjani Kumar Sharan, J)

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