

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9989 of 2021

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1. Ram Anek Thakur son of Janak Nandan Thakur resident of Mohalla - Nawal Kishore Nagar, near Amrapali I.T.I., Khabra, P.S. Muzaffarpur Sadar, District- Muzaffarpur, the retired U.D. Assistant, B.R.A. Bihar University, Muzaffarpur.
 2. Amresh Kumar Bhuwaneshwar Prasad Singh resident of Teachers Hostel No. 3, B.R.A. Bihar University, P.S. University, District- Muzaffarpur, the retired Section Officer, B.R.A. Bihar University, Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director Higher Education, Education Department, Government of Bihar, Patna.
4. The Vice Chancellor B.R.A. Bihar University, Muzaffarpur.
5. The Registrar, B.R.A. Bihar University, Muzaffarpur.
6. The Finance Officer, B.R.A. Bihar University, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Advocate Mr. Abhinav Shandilya, Advocate Mr. Santosh Kumar, Advocate
For the State	:	Mr. Subash Chandra Mishra (SC-16)
For the University	:	Mr. Indrajesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 27-03-2025

Heard Mr. Vijay Kumar Singh, learned counsel appearing on behalf of the petitioners; Mr. Subash Chandra Mishra, learned SC-16 appearing on behalf of the State and Mr. Indrajesh Kumar, learned counsel for the B.R.A. Bihar University.

2. The petitioners in paragraph no. 1 of the present writ petition have sought *inter alia* following relief(s), which is



reproduced hereinafter:

"(I) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities to grant the pay-scale to the petitioners in the prescribed pay-scale of Assistant i.e. Rs.5500-9000 with effect from 01.01.1996 as per the Resolution contained in memo no. 1192 dated 23.06.2014 issued by the State Government in the light of the direction of the Hon'ble Supreme Court as also grant the pay-scale of Rs. 6,500-10,500 with effect from 09.08.1999 as the first ACP, the pay-scale Rs. 15,600-39,100 Grade Pay 6600 with effect from 01.01.2009 as the first M.A.C.P., the pay-scale of Rs. 15,600-39,100 Grade Pay 7600 with effect from 01.04.2015 and 10.09.2015 respectively as the second M.A.C.P.

(II) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities to pay the differences of salary and pension and other consequential monetary benefits to the petitioners with interest in view of the revision of the aforesaid pay-fixation.

(III) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioners shall be found entitled under the facts and circumstances of the case."

3. Learned counsel appearing on behalf of the petitioners submitted that the services of the petitioner no. 1 was regularized with effect from 10.09.1985 and the services of the petitioner no. 2 was regularized with effect from 01.04.1985 against the sanctioned and vacant posts of Routine Clerk in the Department of Political Science of the respondent-University. The petitioner no. 1, after completion of ten years of service, was granted time bound promotion with effect from 10.09.1995 and petitioner no. 2 was granted time bound promotion with



effect from 01.04.1995 in the pay-scale of Rs. 1320-2040/- vide order contained in Memo No. B/3119 dated 17.08.1997. Thereafter, vide office order contained in Memo No. B/1901 dated 01.09.2009, the petitioner no. 2 was promoted against the sanctioned and vacant post of Upper Division Assistants with immediate effect. On the date of said promotion, the pay scale of the petitioner no. 2 was Rs. 4000-6000 and on account of the said promotion, his pay-scale was fixed Rs. 5000-8000/- vide Memo No. B/2037 dated 03.10.2009. Similarly, petitioner no. 1 was also granted promotion to the post of Upper Division Assistant. The respondent university made fixation of salary of the petitioners on 31.07.2015 in pay scale of Rs. 4000-6000 with effect from 01.01.1996 and pay scale of Rs. 5500-9000 was granted to the petitioners with effect from 09.08.1999 on account of grant of first A.C.P. Petitioner no. 1 had superannuated from the post of Upper Division Assistant on 30.04.2020 and the petitioner no. 2 had superannuated from the post of Section Officer on 31.01.2021. Thereafter, the Education Department, Government of Bihar vide G.O. dated 25.02.1987 declared the non-teaching staff of Universities and constituent colleges equivalent to the Government Staff. According to Memo no. 1192 dated 23.06.2014 and other circulars issued by



the State Government pursuant to the direction of the Hon'ble Supreme Court, the petitioner is entitled to get the pay-scale of Rs. 5500-9000/- with effect from 01.01.1996 in place of pay scale of Rs. 4000-6000/-, which is prescribed pay scale of the Assistant and petitioners are also entitled to get pay-scale of Rs. 6500-10500 with effect from 09.08.1999 as the first ACP, pay scale of Rs. 15,600-39,100 (Grade Pay 6600) with effect from 01.01.2009 as the first M.A.C.P and pay scale of Rs. 15,600-39,100 (Grade Pay 7600) with effect from 01.04.2015 and 10.09.2015 respectively on account of 2nd M.A.C.P.

4. Learned counsel further submitted that petitioners are non-teaching employees of the respondent-University and as per the audit report, their pay scale has been reduced to Rs. 4000-6000/-. Learned counsel further submitted that the case of the petitioner is covered by a decision of this Court passed in CWJC No. CWJC No. 22953 of 2018 (***Bimal Kumar Bimal vs. the State of Bihar & Ors.***) and other analogous cases.

5. *Per contra*, learned counsel appearing on behalf of the State submitted that the pay-scale of Rs. 5500-9000/- has been fixed with effect from 01.01.1996 in view of the fact that the petitioners were initially appointed against the sanctioned and vacant posts of Routine Clerk and was not appointed as



Assistant and are only entitled for pay scale of Rs. 4000-6000/-.

6. Heard the parties.

7. The question involved in the present writ petition is whether on the basis of the audit objection, the State Government can turn down the pay fixed by the University. In the present writ petition, it is not denied by the petitioners that an audit was held in respect of any of the financial year and objection was raised with respect to the claim of the petitioners. The Additional Chief Secretary, Education Department must abide by the law and seek requisite documents relating to the petitioners for granting relief as prayed for in the present writ petition and, if required, the University must also furnish also all the documents by uploading it on the official website of the State Government to be verified by the Pay Verification Cell of the Education Department for taking corrective measures.

8. It appears that the Pay Verification Cell has not followed the directives contained in order passed by this Court in CWJC No.6736 of 2014, which is based on the audit objection. The Additional Chief Secretary, Education Department, Government of Bihar and the Registrar/Finance Officer headed by the Vice Chancellor of the University. The petitioners, if so desire, must also co-operate to get their relief



redressed, as claimed for in the present writ petition.

9. I find it apt to reproduce operative part of the Judgment dated 15.01.2015 passed by this court in CWJC No. 7636 of 2014, which is reproduced hereinafter:

“16. In view of the above, the objection of the Pay Verification Cell cannot have the effect of annulling previous notifications issued by the University, unilaterally, nor can such objection have the effect of modifying the previous notification issued in favour of the petitioners. Such objections will be treated as audit objections for which notices would be required to be given to the University concerned, which in turn will issue notice to the concerned affected teachers and employees, seek their response and the University thereafter will revert to the Pay Verification Cell. If the response of the University or the concerned employee is not found to be satisfactory, the State Government can issue appropriate direction to the University to issue appropriate corrigendum within the time frame so fixed. But the final notification and amendment or corrigendum of clarification of the previous decision has to be taken by the University because Pay Verification Cell does not have any power in this regard.

17. Yet another serious conformity found by the Court is that the decision contained in Annexure-8 series has been passed in gross violation of the principles of natural justice because the decision so taken by the Pay Verification Cell has serious civil consequences for these petitioners since they are going to not only lose out on the salary they have so earned but even the orders of promotion etc. which they have acquired over a period of time on the basis of the date of their initial absorption on their respective post and position gets altered.

In view of the above, Annexure-8 series are quashed.”

10. The Additional Chief Secretary, Education Department, Government of Bihar must take appropriate action forthwith and get at least the fund released from the Finance Department by making a request to the Additional Chief Secretary, Finance Department, Government of Bihar to the



extent the petitioners are required to be paid the requisite amount under different heads as per their pay scale.

11. The Additional Chief Secretary, Education Department is directed to take action forthwith upon receipt of the requisite information in light of the order contained in CWJC No.7636 of 201.

12. In the light of the mandate contained in CWJC No. 7636 of 2014, **Annexure-16** and **Annexure 20** are hereby set aside and quashed.

13. Accordingly, the present writ petition stands disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	30.03.2025
Transmission Date	N/A

