

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12139 of 2021

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Siyaram Singh son of Late Bisheshwar Singh resident of village Maheshwara,
P.S. Gaighat, District- Muzaffarpur, the retired Assistant Jang Bahadur Singh
Dhanaur College, Bakuchi, P.O. Katra, District- 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.
7. The Principal, Jang Bahadur Singh Dhanaur College, Bakuchi, P.O. Katra, District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Advocate Mr. Abhinav Shandilya, Advocate
For the State	:	Mr. Prabhakar Jha, (GP 27)
For the University	:	Mr. Rakesh Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 27-03-2025 Heard Mr. Vijay Kumar Singh, along with Mr. Abhinav Shandilya, learned counsels appearing on behalf of the petitioner; Mr. Prabhakar Jha, learned GP 27 for the State and Mr. Rakesh Kumar Singh, learned counsel appearing on behalf of the University.

2. The petitioner in paragraph no. 1 of the present writ petition has sought inter alia the 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 count the services of the petitioner since the date of his initial joining i.e. 29.11.1976 pursuant to the appointment made by the Governing Body of the College vide letter dated 19.11.1976 for the purposes of grant of pension and other consequential benefits but the Respondent University granted the pension of the petitioner counting his service with effect from 01.01.1985 since the date when the Vice Chancellor of the Respondent University allowed the regular scale to the petitioner vide memo no. B/500 dated 22.01.1985

(II) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities to pay the differences of pension and other consequential benefits with interest.

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

3. Learned counsel appearing on behalf of the petitioner submitted that the case of the petitioner is squarely covered by judgment of the Division Bench of this Court vide order dated 13.09.2023 passed in **LPA No.511 of 2021 (Guru Sharan Singh Vs. State of Bihar and Ors.)**. Learned counsel has relied on the following paragraphs of the said judgment, which are reproduced hereinafter:

“12. The only ground on which the Pay Verification Cell has revised the pay scales applicable to the appellant from 01.01.1996, was the service details as forwarded by the College. It is also admitted that the service details indicated that the appellant has not been appointed to a sanctioned post and that there was nothing to show that he was selected by due procedure followed. We reiterate at the risk of repetition, that the appointment was made in the



year 1979 and though such appointment was by reason of exigencies of requirement of an additional hand, it was regularized in 1986 in a sanctioned post, where he continued till his date of superannuation on 30.09.2017. The Government cannot now take a stand that the appellant was not appointed to a sanctioned post and his appointment was not following due procedure. He was paid salary while he was in employment and he was also allowed to retire and the Pay Verification Cell approved the revision of pay; which was also forwarded by the University in accordance with the decision in *Sunny Prakash (supra)*.

13. *Sunny Prakash (supra)* directed pay parity as agreed upon by the State Government. The pay parity agreed upon, was *inter alia* for the non-teaching staff of constituent colleges of the University, as applicable to the Government staff. There is no dispute as to the pay scales applicable to the Government staff, specifically Storekeepers as on 1996. The appellant was an employee continuing in a sanctioned post in the year 1996 and the Supreme Court judgment squarely applies to him. The Government cannot read into the agreement entered into with the Federation and the authoritative pronouncement of the Hon'ble Supreme Court, additional requirement of the initial appointment being in a sanctioned post and the appointment also having been made after due procedure. These were aspects which could have been considered at the time of regularization. When the appellant was regularized in a post, which was admittedly sanctioned and continued therein till superannuation; there can be no dispute raised regarding his initial appointment that too, after his superannuation, merely for the purpose of reducing his pension and denying him the benefits that flows from the agreement, which was directed to be implemented by the Hon'ble Supreme Court.

14. On the above reasoning, we find the judgment impugned to be erroneous and not founded on sound legal principles. We set aside the impugned judgment by allowing the appeal and as a consequence, allow the writ petition by setting aside Annexure-1/A in I.A. No. 3 of 2021 filed in the LPA and Annexure-P/10 produced in the writ petition. The entitlement slip of Pay Verification Cell, Patna produced in the counter affidavit of the State at Annexure-B, shall regulate the revision of pay scales of the appellant, while in employment and also for the purpose of fixation of pension. The appellant shall also be entitled to the consequential



benefits, including that of ACP/MACP.

15. The respondents shall compute the entire arrears payable to the appellant, as per the directions issued hereinabove and pay the arrears within a period of six months from today, failing which the appellant would be entitled to 6% interest on the arrears payable from the expiry of the six month period; which interest shall be paid by the State Government and would be enabled recovery from the officers, who committed the default in complying with the directions of this Court.

16. We issue the consequent directions only in the context of the appellant having retired in the year 2017 and the appellant having been paid only a paltry amount of pension on specious grounds of challenge to the initial appointment; which was never taken up during the entire service of the appellant from 1979 to 2017, almost four decades.”

Learned counsel, relying on the aforesaid judgment of the Division Bench, submitted that the University is required to consider the case of the petitioner on similar footing, by sending the details of the petitioner to the pay verification cell for examining and making the payment, after fixation of pension and arrears of salary and difference of pension and gratuity, in accordance with law.

4. Per contra, learned counsel appearing on behalf of the State and University informs that though the petitioner has claimed that his case is similar to that of **Guru Sharan Singh (Supra)** but the petitioner has approached this Court after much delay. The remedy under Article 226 is inefficacious remedy in the present case and the petitioner don't deserve to be granted any remedy for the relief(s), as prayed for in the present writ



petition.

5. Having heard the rival submissions made on behalf of the parties, I find it proper that the petitioner may file a detailed representation before the Registrar of the University. The Registrar of the University is directed to call for the service particulars of the petitioner and verify, as to whether, similar relief(s) can be granted to the petitioner, as has been granted to the appellant in the order dated 13.09.2022 passed in LPA No.511 of 2021 and forthwith send the pay fixation relating to the petitioner to the State for verification of the same, without any delay, so that, the relief(s), as prayed for in the present writ petition, can be granted to the petitioner in light of the observation made in the **Guru Sharan Singh (Supra)**.

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

(Purnendu Singh, J)

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