

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12038 of 2025

Krishna Kant Upadhyay, S/o-Om Prakash Upadhyay, R/o- A- 104, Hari Bhau Upadhyay Nagar (Main), Pushkar Road, P.S.- Ajmer, Rajasthan- 305004.

... .. Petitioner/s

Versus

1. Union of India Through the Secretary, Ministry of Education, Govt. of India, Shastri Bhawan, New Delhi- 110001.
2. Mahatma Gandhi Central University, Through Vice Chancellor, Near OP Thana, Raghunathpur, Motihari, District- East Champaran, Bihar - 845401.
3. University Grant Commission, Through its Chairman, Bahadur Shah Zafar Marg, New Delhi- 110002.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Sinha, Sr. Adv. Mr. Kumar Prabhakar, Adv. Mr. C.M. Jha, Adv.
For the Respondent/s	:	Mr. Additional Solicitor General
For the MGCU	:	Mr. Vishal Saurabh, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 16-09-2025 Heard the parties.

2. The petitioner, who has been serving as a Controller of Examinations on tenure post since 01.10.2020 in Mahatma Gandhi Central University vide appointment order bearing no. 2-1/MGCUB/Rectt./2016/4946 dated 14.09.2020 has invoked the jurisdiction of this Court seeking a direction upon the respondent University to maintain the *status quo* and allow the petitioner to discharge his duty till the date of superannuation in terms with the mandate of the Central University Act, 2009 specially Section 8(2) thereof. Further prayer has been made to extend the benefit of pay protection to



the petitioner as per the CCS Rules and the circulars issued by the Government of India, specially in the light of the provisions laid down under Rule FR 22-B(1) of the CCS RP rules, 2016.

3. Learned Senior Advocate while persuading this Court to allow the petitioner to continue till the age of his superannuation has taken this Court through the Central Universities Act, 2009; specially Section 8(2) and categorically submitted that there is specific mandate that the Controller of Examinations shall be appointed for a term of 5 years and shall be eligible for re-appointment. However, this mandate has been given complete go-by while issuing the advertisement at the time of recruitment of the petitioner and/or presently when a fresh advertisement dated 13.06.2025 has been issued by the respondent University for appointment to the post of Controller of Examinations.

4. Learned Senior Advocate further drew the attention of this Court to the ordinance no. 11 which speaks about the emoluments, terms and condition of service of the Controller of Examinations and referring to the proviso he submits that the Controller of Examinations shall retire on attaining the age of 62 years. On the strength of these provisions submission has been made that the University is duty bound to adhere with the



stipulations made under the Act and allow the petitioner to continue till the age of superannuation as there is neither any doubt about his efficiency nor allegation against him.

5. Further submission has been made that before joining on the post of Controller of Examinations, the petitioner had been drawing the salary at the level of 14 with the basic pay of Rs. 1,67,200/-, however he has been allowed basic pay of Rs. 1,44,200/- as per the offer of appointment letter, and thereby deprived from the pay protection. Despite several representation, grievance of the petitioner has also not been looked into favourably.

6. Learned Advocate for the Mahatma Gandhi Central University refuted the aforementioned contention and submitted that there is no dispute with regard to the specific stipulations made in the advertisement pursuant to which the petitioner was appointed that the tenure of the Controller of Examinations shall be only for 5 years or till attaining the age of superannuation, i.e. 62 years, whichever is earlier. The petitioner accepting all the terms and condition had participated in the advertisement and was appointed on the post of Controller of Examinations only for 5 years. Now, he cannot be allowed to challenge the same. All the more, since the tenure is about to complete, a fresh



advertisement has been issued with identical stipulation. There is no confusion under the prescriptions provided in the Central Universities Act, 2009 that the Controller of Examinations shall be appointed for a term of 5 years and shall be eligible for re-appointment. He further submits that the proviso of the ordinance 1 (2) clearly provides that the Controller of Examinations shall be whole time salaried officer, appointed on the basis of direct recruitment on the recommendations of Selection Committee, constituted for purpose of tenure of 5 years which can be renewed for a similar term.

7. From the reading of the aforesaid provisions, the only conclusion can be drawn, in the opinion of the learned Advocate for the University, is that the petitioner is eligible to participate in the next advertisement, if the petitioner is still eligible.

8. This Court finds substance in the submission of learned Advocate for the University. There is no merit in the prayer of the petitioner to the extent he prays to maintain *status quo* and direct the University to allow him to discharge his duty, till attaining the age of 62 years, in view of the clear and specific prescription under the Act and the advertisement pursuant to which the petitioner was duly selected, besides the



relief sought for is barred by the principle of estoppel. However, so far the second grievance of the petitioner with regard to pay protection is concerned, since the petitioner had already filed a detailed representation, the copy of which is marked as Annexure P/9, this Court deems it fit and proper to direct the University to look into the matter and dispose off the same by passing a reasoned and speaking order, in accordance with law, preferably within a further period of 8 weeks.

9. The writ petition stands disposed off, accordingly.

(Harish Kumar, J)

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