

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12395 of 2023

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Bhupendra Nath Singh, Son of Late Keshav Prasad Singh, Resident of Keshav Bhawan, Gali No.2, Maharaja Hata, Arrah, Police Station Nawadah, District Bhojpur.

... .. Petitioner/s

Versus

1. The Union of India Through the Secretary, Ministry of Culture, Government of India, New Delhi.
2. The State of Bihar Through the Principal Secretary, Higher Education Department, Government of Bihar, Patna.
3. Nava Nalanda Mahavihar through the Registrar, Nalanda, Bihar.
4. The Vice Chancellor, Nava Nalanda Mahavihar, Nalanda, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sujeet Kumar Sinha, Advocate Mr. Indubhushan Pandey, Advocate Mr. Rupak Kumar, Advocate
For the Respondent/s	:	Mr. Subhash Chandra Mishra, SC-16
For the Nava Nalanda Mahavihara:		Mr. Ajay Kumar Sinha, Advocate Mr. Ugranath Mallik, Advocate
For the Union of India	:	Ms. Kanak Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
CAVJUDGMENT

Date : 27-02-2025

1. The petitioner has invoked the Constitutional Writ Jurisdiction of this Court with a prayer for issuance of writ in the nature of Certiorari for quashment of the letter no. 278, dated 28th of December, 2018 and order dated 28th of February, 2005, whereby and whereunder the claim of the petitioner for payment of salary and arrears of salary have been rejected by the Registrar and Director, respectively, Nava Nalanda Mahavihara, Nalanda in view of an order dated 28th February,



2005.

2. The dispute revolves around the petitioner's appointment, termination, reinstatement and institutional transition following the transfer from Nava Nalanda Mahavihara, Nalanda to the Ministry of Culture, Government of India.

3. The petitioner was appointed as Assistant Professor (Lecturer) in Pali on an *ad hoc* basis against a sanctioned vacant post *vide* Memo No. 20, dated 24th of April, 1986, effective from 1st of May, 1986, under the Bihar Education Service Class-II Cadre. His appointment was later confirmed under the Bihar Gazetted Officers' Adhoc Appointment Regularization Act, 1987 and regularized from 1st of May, 1986.

4. However, his appointment was abruptly terminated by office order no. 145, dated 2nd of August, 1986. This termination was subsequently rescinded by a subsequent office order no. 64, dated 21st of April, 1988, following the direction of Deputy Secretary and the advice from the Law Department. Consequently, the petitioner was reinstated as a Lecturer in Pali Department and his salary during the termination period was sanctioned.

5. On 4th December, 1990, the Government of Bihar



transferred Nava Nalanda Mahavihara, Nalanda to the Ministry of Culture, Government of India through a resolution dated 4th of December, 1990. Following this, the petitioner was appointed as Incharge Director of Nava Nalanda Mahavihara, Nalanda on 20th of February, 1991.

6. However, case of the petitioner is that he faced another termination through Memo No. 357, dated 6th of May, 1992 retrospectively w.e.f. 2nd of August, 1986. The said order of termination was challenged by the petitioner by filing C.W.J.C. No. 4264 of 1992. This Court, in its judgement, quashed the retrospective effect of the termination and directed payment of salary in favour of the petitioner up to 6th of May, 1992. Pursuant to the Court's order, the petitioner rejoined Nava Nalanda Mahavihara, Nalanda on 5th of February, 1994 which was not duly accepted by the Director. Through this period, Nava Nalanda Mahavihara, Nalanda was officially transferred to the Ministry of Culture w.e.f. 25th of February, 1994. However, the petitioner's name was not included in the list of transferred employees. Nevertheless, Higher Education Department, Bihar *vide* Memo No. 282, dated 21st of February, 1997, recommended the adjustment of petitioner's service under the Ministry of Culture. Despite the recommendation for adjustment, the



petitioner faced rejection of his claim by an order dated 28th of February, 2005, which, he claimed was not served upon him until 28th of December, 2018. Following receipt of the order, the petitioner submitted several representations but the respondents failed to consider his representation for payment of salary and arrears of salary. Subsequently, the instant writ petition has been filed. The petitioner also filed an Interlocutory Application for early disposal of the writ petition citing Vice Chancellor's letter dated 30th of August, 2023, which admitted his claim and directed consideration of post retiral benefits.

7. By filing counter affidavit on behalf of Respondent Nos. 3 and 4, it is contended that the petitioner is not entitled to get his arrears of salary and other benefits after withdrawing C.W.J.C. No. 4264 of 1992. It is also urged that the petitioner never challenged the rejection order of 2005 prior to filing of the instant writ petition and emphasized that the claim is time barred, having been filed 31 years after his termination and 18 years after the rejection of his claim.

8. The contesting respondents denied petitioner's claim of continuance of service citing Memo No. 357, dated 6th of May, 1992. They also disputed the authenticity of the letter dated 30th of August, 2023, alleging inter alia that it was



fabricated and not issued by the Vice Chancellor's office. It is also contended by them that the issue was conclusively settled *vide* order dated 28th of February, 2005, rejecting petitioner's claim.

9. The State of Bihar has also filed a counter affidavit against the above-mentioned writ petition.

10. Subsequently, the petitioner filed a rejoinder against the counter affidavit filed by the Respondent Nos. 3 and 4. It is contended by the petitioner that the Respondent Nos. 2 and 3 disputed the contents of the letter dated 30th of August, 2023 though the Vice Chancellor admitted his signature on the said letter. The letter was received by the petitioner on 1st of December, 2024. The petitioner also submits that his service was placed to the Department of Culture, Government of India and he joined as Director Incharge under the Ministry of Culture, the entire dispute is required to be decided by the Ministry of Culture, New Delhi and the same cannot be rejected by the Director, Nava Nalanda Mahavihara, Nalanda.

11. Having heard the learned counsels for the parties and on careful perusal of the entire materials on record, this Court finds that practically by letter dated 30th of August, 2023, the then Vice Chancellor issued a letter stipulating a condition to



the petitioner that if he would withdraw C.W.J.C. No. 12395 of 2023, then only, the Respondents can consider his case and settle the grievances of the petitioner regarding payment of dues, which include salary, arrears of salary and retiral dues.

12. The Respondent Nos. 3 and 4 of course disputed the contents of letter, but this is not a fact finding Court to ascertain as to whether the said letter dated 30th of August, 2023 was actually contained an assurance of the Vice Chancellor that the grievance of the petitioner regarding salary, arrears of salary and retiral benefits would be considered if he would withdraw C.W.J.C. No. 12395 of 2023. On the basis of the said letter, C.W.J.C. No. 12395 of 2023 was withdrawn.

13. It is not in dispute that the petitioner discharged his functions since 1994 as Director Incharge, under the Ministry of Culture, Government of India as Nava Nalanda Mahavihara, Nalanda was taken over by the Ministry of Culture, Government of India. It is for the Respondents to consider as to whether the Higher Education Department, Government of Bihar or the Union of India, Ministry of Culture, New Delhi had the responsibility to pay salary, arrears of salary and retirement benefits to the petitioner or not. Since the petitioner discharged his duties till the age of superannuation, the Respondents are



under obligation to make payment of salary, arrears of salary and retirement benefits.

14. In view of such circumstances, the instant writ petition stands disposed of, directing the Respondents to treat the writ petition as representation of the petitioner and dispose of the same by a reasoned order within a period of 60 days from the date of communication / receipt of the same.

15. With the aforesaid direction, the instant petition stands disposed of, on contest, however, without costs.

(Bibek Chaudhuri, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	14.02.2025
Uploading Date	27.02.2025
Transmission Date	N/A

