

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19703 of 2016

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Gajendra Sah Son of Late Ram Krishna Sah resident of Village Madhepur,
P.S. Madhepur, District - Madhubani.

... .. Petitioner/s

Versus

1. Lalit Narain Mithila University
2. Vice Chancellor, L.N. Mithila University, Kameshwar Nagar, Darbhanga,
District - Darbhanga.
3. Registrar, L.N. Mithila University, Kameshwar Nagar, Darbhanga, District -
Darbhanga.
4. Principal Harshpati Singh College, Dharmanand Nagar, Madhepur, District -
Madhubani.
5. The State of Bihar through Principal Secretary, Higher Education, Department
of Education, Bihar, P

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Durga Nand Jha, Advocate
For the Respondent/s	:	Mr.Kameshwar Kumar- Gp17
For LNMU	:	Mr. Bindhyachal Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

7 08-12-2025 Heard learned counsel for the petitioner, learned

counsel for the State as well as learned counsel for the

respondent-University.

2. With the consent of the parties, this writ application

is being disposed of at this stage.

3. The petitioner in the present writ application has

prayed for the grant of following relief :-

*(i) Issuance of a writ in the nature of
Mandamus directing and commanding the respondents
to pay he salary to petitioner in regular pay scale from
the date of his initial appointment after adjusting the
amount already paid and also pay the current salary on
month basis treating the services of petitioner as
deemed sanction as he has been continuously working
on the post of Generator operator since the date of his
appointments.*



(ii) Issuance of further writ in the nature of Mandamus commanding the Respondents to take final decision on the point of payment of salary in proscribed Pay scale on the basis of staffing pattern at the earliest and for the said purpose a time frame schedule be fixed for the university to send the necessary particulars to the state Government, if not sent earlier and for the state to take final decision in the matter including release of necessary fund for the payment of due salary to petitioner at the earliest.

(iii) Issuance of an appropriate declaration and holding that the petitioner is fully entitled to his salary in regular pay scale in view of full-Bench decision of this Hon'ble court passed in the case of Braj Kishore Singh versus the state of Bihar and others as reported in 1997 (1) PLJR 509; the ratio decided by Hon'ble Division Bench on 25-8-2003 as reported in 2003 (3) PLJR 749.

(iv) Issuance of an appropriate declaration and holding that once the state Govt. had laid down guide-lines vide Resolution of the then Human Resources Development Department contained in Memo no.989 dated 10.5.1991 in respect of services of employees who were appointed prior to 10.5.86, the Respondents were/are required to take a decision in the light of those guide lines to continue the petitioner in prescribed salary on staffing pattern as he is pre 10.5.86 appointee even in view of the decision of Hon'ble Supreme court of India as reported in 2005 (L) PLJR(SC) 465.

(v) Any other relief or reliefs be granted to petitioner to which he is found to be entitled to in accordance with law.

4. Learned counsel for the petitioner submits that for seeking the same relief, the petitioner had earlier approached this Court vide C.W.J.C. No.13240 of 2004 which was dismissed as withdrawn on 01.03.2006. The order dated



01.03.2006 passed in C.W.J.C. No.13240 of 2004 is quoted hereinbelow for needful :-

“After some arguments, learned counsel for the petitioner seeks permission to withdraw this application enabling the petitioner to pursue his remedy internally.

This application is accordingly dismissed as withdrawn.”

5. Learned counsel for the petitioner contends that after the aforesaid writ application was withdrawn by the petitioner, the petitioner approached the Vice-Chancellor of Lalit Narain Mithila University, Darbhanga vide representation dated 10.04.2006 followed by representation dated 12.07.2006 brought on record by way of Annexure-6 and 7 respectively. But till date, no order has been passed on the said representations. He further submits that other persons similarly situated as the petitioner, their cases have been considered but so far as the petitioner is concerned, till date no final decision has been taken. In the year 2016, vide letter dated 29.06.2016 the respondent-Universities had submitted that the matter relating to the petitioner was under consideration. This communication was released by the University in response to RTI application. The same thing was reiterated by the respondent University vide letter dated 12.11.2016 stating that the matter relating to the petitioner was under consideration.



Both these letters have been brought on record by way of Annexure-P-15 and P-16. When specific query was posed to learned counsel appearing for the respondent University as to what order was passed on the representations filed by the petitioner and particularly when in the year 2016, the respondent University had submitted that the matter was under consideration, then whether any order has been passed in favour of or against the petitioner till date?

6. To the aforesaid query posed to the learned counsel appearing for the respondent-University, learned counsel appearing for respondent-University submits that till date no final order has been passed on the matter relating to the petitioner and even the representations filed by the petitioner in the year 2006 continue to remain pending.

7. At this stage, learned counsel appearing for the petitioner submits that he is willing to file fresh representation before the Registrar of the respondent-University with all the necessary details and supporting documents and if such a representation is allowed to be filed then appropriate direction be issued to the Registrar of the respondent-University to dispose of the said representation within a fixed time frame after giving an opportunity of hearing to the petitioner.



8. To the aforesaid submissions made by learned counsel for the petitioner, learned counsel appearing for respondent-University and State do not have any objection.

9. Considering the limited nature of prayer being made by learned counsel for the petitioner, this writ application is disposed of granting liberty to the petitioner to file a fresh representation along with all supporting documents before the Registrar of the respondent-University within one month from the date of passing of this order and if such a representation is filed by the petitioner, the same shall be disposed of within a further period of three months from the date of filing of the representation, after giving opportunity of hearing to the petitioner.

10. Needless to emphasize that the final order which shall be passed by the Registrar of the respondent-University should be a reasoned and speaking order.

11. With the aforesaid observation/direction and liberty granted, the present writ application stands disposed of.

12. All pending I.A.s, if any, is deemed to have been disposed of.

(Alok Kumar Sinha, J)

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