

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22319 of 2019

Narendra Kumar Singh, Son of Giraja Singh, Resident of Village Shyam
Nagar Nima, P.O. and P.S. Sherghati, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Vikas Bhawan, New Secretariat, Patna.
3. The Director, Higherr Education, Government of Bihar, Vikas Bhawan, New Secretariat, Patna.
4. The Pay Verification Cell of Government of Bihar through its In charge, Text Books Corporation Building, Buddha Marg, Patna.
5. The Magadh University through its Registrar, Bodh Gaya, Gaya.
6. The Vice Chancellor, Magadh University, Bodh Gaya, Gaya.
7. The Registrar, Magadh University, Bodh Gaya, Gaya.
8. The Finance Officer, Magadh University, Bodh Gaya, Gaya.
9. The Finance Adviser Magadh University, Bodh Gaya, Gaya.
10. The Principal, A.N. College, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Sr. Adv., Mr. Shashank Shekhar, Adv., Mr. Ugranath Mallik, Adv.
For the State	:	Mr. Kameshwar Kumar (GP-17)
For the University	:	Mr. Md. Faiz Ahmad, Adv.

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

6 22-09-2025 Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the University.

2. This writ petition has been filed for directing the respondents to fix the pay of the petitioner, on the post of Typist w.e.f. 28.07.1990, i.e. from the date on which the recommendation for promotion of the petitioner, to the post of Typist was made and to pay the consequential benefits, in the



backdrop of the fact that the Syndicate of the University in its meeting dated 27.06.2009 itself has granted approval of promotion of the petitioner to the post of Typist w.e.f. 28.07.1990.

3. It has next been submitted by the petitioner that the Annexure-1, which is said to have been issued by the Principal of the College, addressed to the Registrar, Magadh University, Bodh-Gaya, dated 30.07.1990, would go to show that the petitioner's services were recognized as Peon and promotion on the post of Typist in due course was allowed. Such submission is made on the basis of the documents appended with the writ petition, wherein it has been said that altogether 03 post of typist, which were vacant and the authorities of the College were aware that the petitioner had the eligibility to be appointed against the said post, which was examined by a Selection Committee for granting promotion from Class-IV to Class-III and accordingly, the said promotion was recommended by the Committee. It has next been argued that the matter of promotion to this petitioner was sent and the University vide Memo no. 23/GIC, dated 02.05.2005, issued to the Principal of Anugrah Memorial College, Gaya, granted approval for promotion to the petitioner on the post of Typist and accordingly the case of the



petitioner was considered for promotion w.e.f. 28.07.1990 vide letter no. 1057, dated 14.06.2005.

4. Further the University placed the case of the petitioner before the Syndicate in its meeting held on 27.06.2009 and the proposal for promotion was resolved vide Agenda No. 32, approved by fixing the effective date of promotion in the following manner:-

“It is resolved that the case of promotion of Sri Narendra Kumar Singh, Typist, AM College, Gaya be made effective from the date of recommendation with effect from 28.07.2005.”

The decision so taken by the Syndicate is contained in Memo No. XM/84/09, dated 29.6.2009.

5. On the other hand, learned counsel representing the University submits that approval for promotion granted with respect to this petitioner and was confirmed vide letter no. 6/16, dated 07.01.2016, which is issued under the signature of Registrar, whereby the approval was granted vide Annexure-6 to the writ petition contained in Memo No. 23/G/C, dated 02.05.2005 for granting promotion to this petitioner, which is said to have been confirmed vide letter dated 07.01.2016. From perusal of the letter dated 07.01.2016, which according to the counsel representing University is a decision to recommend for



promotion, as contained in letter dated 2.5.2005 is said to have been considered to be a date from which the promotion with respect to this petitioner was confirmed, but no prudent reason is assigned for making the same to be effective from the date which is contrary to the approval made by the Syndicate.

6. Learned counsel for the State, does not dispute the factual position, whereas he submits that the approval was granted by the Syndicate by resolving in its meeting held on 27.06.2009, whereby the Syndicate had fixed the date, making the same to be effective for the purpose of grant of promotion to the post of Typist from 28.07.1990, but no reason is assigned to fix the date of promotion from the retrospective date, to which the counsel for the petitioner submits that the same could be gathered from Agenda placed for calculation, which has deliberately been ignored by the respondents and irresponsible statements contrary to records are being made.

7. Considering submission of the rival parties, this Court is of the view that the entry of the petitioner in the said College, on the post of Peon in the year 1978 is undisputed. Further the promotion granted by the Committee constituted by the Selection Committee of the College is also undisputed, and the Agenda, which was placed for consideration with regard to



grant of promotion from 28.07.1990 is also an undisputed fact, and as such, the counsels representing State as well as the University has no prudent reason to deny such factual position.

8. On the other hand, learned counsel representing University submits that since Pay Verification cell of Department of Education had assigned the date w.e.f. 2.5.2005, and in view of the fact that the issues having been settled, where fixation of pay scale by the Pay Verification Cell has only to be treated as an audit objection and as such, the said fixation cannot be accepted as valid. Since, no prudent reason is assigned for not accepting the decision of the Syndicate and, therefore, the decision of the Syndicate to make such promotion effective from 28.07.1990 holds fields and the University had no authority to tinker with the decision of the Syndicate, taken with regard to the petitioner and if at all, they had to modify the date, the same procedure was required to be have been adopted by the University, which procedure having not been adopted, the authorities of the University is not in a position to take departure from such decision and assign a new date, which is not in consonance with the decision taken by the Syndicate.

9. It is in this background, the decision of the authority, as contained in letter no. 6/16, dated 07.01.2016,



Annexure-P/19 is set aside and the authorities are directed to calculate the pay of this petitioner for the post of Typist w.e.f. 28.07.1990, in terms of the approval granted by the Syndicate, by taking an appropriate decision in this regard.

10. It is now made clear that the payment shall be calculated w.e.f. 28.07.1990 notionally, but the petitioner shall be entitled to actual payment preceding three years from the date of filing of writ petition till the date of payment and only on such calculation, the amount shall be disbursed in favour of the petitioner.

11. From the record, it appears that the instant writ petition was filed by the petitioner on 14.11.2019, therefore, the effective date for calculation of actual salary would commence from 13.11.2016, till the date of payment and other consequential benefits if found applicable shall also be calculated in accordance with law.

12. Accordingly, the instant writ petition is disposed off in the above terms.

(Ajit Kumar, J)

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