

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2803 of 2019

Dr. (Smt) Shashi Prabha Prof. Ramesh Prasad Sinha Resident of opposite to
Angan Apartment, Congress Maidan Road, P.S- Kadamkuan, District- Patna
... .. Petitioner/s

Versus

1. The State of Bihar and Ors through the Principal Secretary, higher Education Department, Government of Bihar, Patna
2. The Patna University, Patna Bihar
3. The vice Chancellor, Patna University, Patna Bihar
4. The Registrar, Patna University, Patna Bihar
5. The Finance Officer, Patna University, Patna Bihar
6. The Development Officer, Patna University, Patna Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kripa Nand Jha, Advocate
For the State	:	Mr. Priyadarshi Matri Sharan, AC to AAG-15
For the Patna University :		Mr. Mrigank Mauli, Sr. Advocate
		Mr. Manish Dhari Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

21 13-07-2026

Re:- I.A. No.01 of 2026

The present Interlocutory Application No. 01 of 2026 has been filed on behalf of the petitioner seeking incorporation of the following additional relief, as stated in paragraph 14 thereof:-

(i) For quashing clause-2 of the order dated 04.09.2018 and report dated 04.08.2018 (Annexure-2 to 3rd Counter affidavit) issued by the Registrar, Patna University, so far, it is adversely affect the claim of the petitioner and refix the pension and other retiral dues of the petitioner, promoted to the post of Associate Professor w.e.f. 27.06.2015 granted to her vide Notification dated 14.12.2018 as have been allowed to other



teachers of the University (Annexure-6 to the third supplementary counter affidavit).

2. On the other hand, a consolidated counter affidavit, in response to the queries made by this Court as well as the averments made in the Interlocutory Application, has already been brought on record by the Patna University, which does not raise any objection to the same, accordingly for the reasons and grounds mentioned in the interlocutory application, the same is allowed. The additional relief sought therein shall also be treated as part of the relief sought in the present writ petition and the same shall be considered along with the original reliefs prayed for in the writ application.

3. Accordingly, I.A. No.1/2026 stands disposed of.

Re:- CWJC No.2803 of 2019

5. The instant writ application has been filed for the following reliefs:-

(i) For quashing the letter no.1006 dated 25.06.2018 whereby and whereunder Rs.7,93,571/- has sought to be recovered from the gratuity and earned leave amount of the petitioner after two years of her retirement from service for alleged miscalculation on the part of the respondents concerned which was fixed in the year 2011 and said to have paid to her till the date of retirement dated 31.07.2015 i.e. Rs.15,261/- per month excess which is highly absurd and appears to have prompted with malice and mala fide intention of the



respondents.

(ii) For holding and declaring that the alleged recovery is parse illegal and bad in law in view of the number of judgment by this Hon'ble Court as well as the Hon'ble Apex Court wherein on number of occasions it has been held that no recovery can be made from the employee in absence of any misrepresentation on their part. It is stated that the impugned order explicitly demonstrate that the said alleged recovery is sought to be made due to alleged miscalculation on the part of the respondent concerned and therefore no recovery can be made from the petitioner from the retired employee and to that extent the adverse remark against the petitioner by the four member committee dated 14.09.2018 is arbitrary, malafide bad in law as well as on facts.

(iii) For any other relief or reliefs to which these petitioners may be found entitled to in the facts and circumstances of the case.

6. After hearing the parties and looking to the nature of dispute raised in the present writ petition, this Court had passed an order on 09.09.2025, which is reproduced hereunder:-

Counsel for the petitioner submits that pursuant to the last letter, the University has come up with a second supplementary counter-affidavit in which it has been contended that the petitioner was heard before preparing the report which is said to have been decided by the Committee constituted with four members to enquire and examine the nature of irregularities and pinpoint the responsibility on the officers with regard to fixation of pay and service rendered as Project Officer under the scheme of Adult & Continuing Education Programme, Patna University.



2. It has next been submitted that that in view of the averments made in the second supplementary counter affidavit, the petitioner was directed to appear before the Enquiry Committee on 11.09.2018 at 02:00 PM while the report which is said to have been prepared by the members of the Committee is of 14.09.2018, which is appended as Annexure R/2 to 6 at pg. no. 10 of the affidavit. From plain reading of the report, it appears that the Committee sat on 8 days, starting from 18.08.2018, 21.08.2018, 24.08.2018, 30.08.2018, 31.08.2018, 06.09.2018, 11.09.2018 and 13.09.2018 and the said report is said to have been prepared on 14.09.2018, whereas the core issue involved in this case is for adjudication of the dispute which is alleged with respect to the fixation of pay and services rendered under the scheme of Adult & Continuing Education Programme undertaken by Patna University for which appointment of this petitioner was made vide Annexure-1, which apparently has been issued by the order of Vice Chancellor, as contained in Memo No. AC/5002-07 dated 30.08.1984.

3. It has next been submitted that University Grants Commission has written a letter to the Registrar, Patna University, wherein it has categorically been mentioned that staff working in the Department / Centre for Adult and Continuing Education and Extension Programmes may be treated at par with other teaching staff working in other faculties of the University, but the report so prepared by the Committee has overlooked the same and has not appreciated the clarification in its true perspective.

4. It has next been submitted that the said letter of UGC further reads:

“The Commission vide its letter No. F.1- 14/85(NFE) dated 17.05.1989 conveyed to the



universities that the core staff of the Department / Centre of Adult & Continuing Education and Extension Programme, i.e., the Director, Assistant Director and Project Officer shall be given the scales of pay corresponding to the scales of pay of Professors, Readers and Lecturers respectively as per the scheme of revised scales of pay for teachers w.e.f. 1.1.1986. In the said circular, it was intimated that the details of the career advancement for Project Officers were being worked out and would be communicated later.”

Despite such clarification having being given by the University Grants Commission to the Registrar, Patna University, the services of this petitioner is being disputed and from the report which is appended with the second supplementary affidavit, the consideration which the authorities of the Patna University were required to make, has not been made by the authorities in true letter and spirit and therefore, the relief which the petitioner has sought by filing this writ petition prima facie appears to be genuine and therefore, as a matter of last chance, the University is again called upon to answer as to why the relief sought has not been extended despite the clarification having been given by the University Grants Commission, where this petitioner is said to have further brought in the services of Patna University on abolition of the said scheme, which was floated by Government of India in the form of Adult Education.

5. The University is obliged to bring on record the appointment letter by which it is being contended that the service of the petitioner on abolition of the Adult Education scheme has been taken by the Patna University treating it to be



fresh appointment. While doing so, it would be obligatory on them to show as to whether there has been any stipulation of this kind, which the University proposes to canvass at this stage for rejecting the claim of the petitioner, as no such consideration appears to have been made by the Committee in this regard as is apparent from the report appended with the second supplementary affidavit.

6. Be that as it may, let the matter come up for further consideration after four weeks so that on the next date of hearing this matter can be adjudicated and final order can be passed with regard to the entitlement of the rights this petitioner has sought by filing the present writ petition seeking the relief.

7. At this stage, the counsel for the petitioner submits that University Statute Sub-rule 2 and 3 of Rule 21 has also been ignored, which needs to be categorically answered by the authorities while filing their response.

8. The counsel representing the Patna University has tried to persuade this Court by referring to various orders which are said to have been passed by the University to address and justify the action of the University, which is appended in the form of the report, and the University is said to have undertaken the exercise for considering the relief sought by the petitioner.

9. The University while filing the response shall be obliged to bring on record as to how the petitioner's relieving from the earlier establishment was accepted without any stipulation made in the said appointment letter, which according to the University is said to be a fresh appointment and on such strength, the regularization is being denied from the date of initial appointment under the Adult Education scheme, which is floated by the Government of



India.

10. Post this matter on 13.10.2025.

7. Pursuant to the order dated 09.09.2025, Patna University has filed its counter affidavits, to which the petitioner has also filed her response. Upon consideration of the pleadings on record, this Court finds that the impugned order reducing the petitioner's pay after her retirement has been passed in clear violation of the principles of natural justice. Admittedly, the petitioner was not given an effective opportunity of hearing before the impugned action was taken. The reliance placed by the learned Senior Counsel for the University upon the meetings of the Committee dated 04.09.2018 and 14.09.2018 to justify the impugned action is of no assistance, inasmuch as the impugned order dated 25.06.2018 had already been passed, before the Committee undertook the exercise of examining the issues of pay fixation and the alleged excess payment. It further appears that the Committee itself was constituted subsequent to the issuance of the impugned order, and therefore its deliberations cannot be treated as compliance with the requirement of granting a prior opportunity of hearing. Moreover, the objections and grounds specifically raised by the petitioner in support of her claim were neither examined nor



dealt with by the Committee. The decision-making process, therefore, stands vitiated for non-observance of the principles of natural justice.

8. Consequently, the impugned order dated 25.06.2018 as contained in letter no.1006 is hereby set aside.

9. The issues relating to fixation of pay scale by the Pay Verification Cell has already been considered by the learned Single Judge in ***Dr. Kedar Nath Pandey & Ors. vs. Magadh University***, reported in **2015 (1) PLJR 574**, wherein it has been reiterated that the Pay Verification Cell has no authority to unilaterally modify or annul the decisions of the University regarding pay fixation and that any action having serious civil consequences affecting the service benefits of an employee cannot be sustained unless the principles of natural justice are duly complied with.

10. Further, the recovery which is sought to be made after the superannuation of the petitioner, for no fault or misrepresentation on her part, cannot be sustained in the light of the judgment rendered by the Hon'ble Apex Court in the case of ***Thomas Daniel vs. State of Kerala & Ors., 2022 SCC OnLine SC 536*** The relevant portion of the aforesaid judgment is extracted below:



“12. In Syed Abdul Qadir v. State of Bihar excess payment was sought to be recovered which was made to the appellants-teachers on account of mistake and wrong interpretation of prevailing Bihar Nationalised Secondary School (Service Conditions) Rules, 1983. The appellants therein contended that even if it were to be held that the appellants were not entitled to the benefit of additional increment on promotion, the excess amount should not be recovered from them, it having been paid without any misrepresentation or fraud on their part. The Court held that the appellants cannot be held responsible in such a situation and recovery of the excess payment should not be ordered, especially when the employee has subsequently retired. The Court observed that in general parlance, recovery is prohibited by courts where there exists no misrepresentation or fraud on the part of the employee and when the excess payment has been made by applying a wrong interpretation/ understanding of a Rule of Order. It was held thus: [emphasis supplied]

59. Undoubtedly, the excess amount that has been paid to the appellant teachers was not because of any misrepresentation or fraud on their part and the appellants also had no knowledge that the amount that was being paid to them was more than what they were entitled to. It would not be out of place to mention here that the Finance Department had, in its counter-affidavit, admitted that it was a bona fide mistake on their part. The excess payment made was the result of wrong interpretation of the Rule that was applicable to them, for which the appellants cannot be responsible. Rather, the whole confusion was because of inaction, negligence and carelessness of the official concerned of the Government of Bihar. Learned counsel appearing on behalf of the appellant teachers submitted that majority of the beneficiaries have either retired or are on the verge of it. Keeping in view the peculiar facts and circumstances of the case at hand and to avoid any



hardship to the appellant teachers, we are of the view that no recovery of the amount that has been paid in excess to the appellant teachers should be made.” [emphasis supplied]

13. *In State of Punjab & Ors. vs. Rafiq Mashi (White Washer)*, reported in (2015) 4 SCC 334, wherein this Court examined the validity of an order passed by the State to recover the monetary gains wrongly extended to the beneficiary employees in excess of their entitlements without any situations of hardship caused to an employee, if recovery is directed to reimburse the employer and disallowed the same, exempting the beneficiary employees from such recovery. It was held thus:

8. As between two parties, if a determination is rendered in favour of the party, which is the weaker of the two, without any serious detriment to the other (which is truly a welfare State), the issue resolved would be in consonance with the concept of justice, which is assured to the citizens of India, even in the Preamble of the Constitution of India. The right to recover being pursued by the employer, will have to be compared, with the effect of the recovery on the employee concerned. If the effect of the recovery from the employee concerned would be, more unfair, more wrongful, more improper, and more unwarranted, than the corresponding right of the employer to recover the amount, then it would be iniquitous and arbitrary, to effect the recovery. In such a situation, the employee's right would outbalance, and therefore eclipse, the right of the employer to recover.

18. It is not possible to postulate all situations of hardship which would govern employers on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their



entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summaries the following few situations, wherein recoveries by the employers, would be impermissible in law :-

(i) Recovery from the employers belonging to Class- III and Class- IV service (for Group- C and Group-D service).

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employers, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the court arrives at the conclusion that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

11. In the aforesaid background, this Court is also of the considered view that the action of the respondents in revising the petitioner's pay scale and its fixation appears to be contrary to the law laid down by the Hon'ble Supreme Court in ***State of Bihar & Anr. vs. Sunny Prakash & Ors.***, reported in **(2013) 3 SCC 559**, wherein it has been reiterated that once the



recommendations of the Statutory Pay Revision Committee are accepted and implemented, the same cannot subsequently be altered or interfered with in a manner inconsistent with the accepted recommendations. In the present case, the petitioner's pay had already been fixed by the competent authority and she continued to receive the same till her retirement. Therefore, the respondents were not justified in reopening the settled pay fixation after her retirement and directing recovery on the basis of a subsequent review, much less without following the principles of natural justice and that too after superannuation, for no prudent reason, showing justification in the impugned order, which is impermissible in law.

12. Taking into account the fact that the petitioner's claim regarding proper pay fixation in terms of the provisions of the University Statutes as well as the UGC guidelines/ recommendations has though been raised in the present writ application but has not been duly considered by the respondents, this Court finds it appropriate to direct the competent authority for fresh consideration of the petitioner's entitlement to the pay scale admissible to her from the date of its applicability. Since the recovery had already been stayed vide order dated 15.02.2019, therefore, there is no question of refund of any



amount by the petitioner. However, so far as the fixation of pay and the consequential fixation of pension are concerned, the petitioner, or her duly authorized assignee, shall file a detailed representation before the competent authority within four weeks from today. Upon receipt of such representation, the authorities of Patna University shall afford the petitioner or her authorized representative an adequate opportunity of hearing and, after considering the relevant provisions of the University Statutes, the UGC guidelines and all other applicable materials, pass a reasoned and speaking order with regard to the petitioner's pay fixation and consequential revision of pension. The entire exercise shall be completed within twelve weeks from the date of receipt of the representation, and a copy of the order so passed shall be duly communicated to the petitioner or her authorized assignee without any inordinate delay.

13. Accordingly, the instant writ application stands allowed with the aforesaid observations and directions.

(Ajit Kumar, J)

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