

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16497 of 2018

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Awadhesh Singh S/o Ram Sarup Singh Resident of Kurthadih, P.S. Kurtha,
District- Arwal, Retired Assistant of S.B.A.N. College, Darhetta Lari,
District- Arwal.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Department of Higher Education, Govt. of Bihar,
Patna.
3. The Magadh University, Bodh Gaya through its Registrar.
4. The Vice Chancellor, Magadh University, Bodh Gaya at Bodh Gaya.
5. The Registrar, Magadh University, Bodh Gaya at Bodh Gaya.
6. The Finance Officer, Magadh University, Bodh Gaya at Bodh Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dinesh Kumar, Advocate Mr. Saroj Kumar, Advocate Ms. Sandhya Singh, Advocate
For the Respondent/s	:	Smt. Binita Singh, SC-28
For the Magadh University	:	Ms. Prakritita Sharma, Advocate Mr. Amarjeet, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

4 28-04-2026 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The writ petition has been filed for the following
reliefs :-

*i. For the issuance of a writ of certiorari
and/or any other appropriate writ/direction/order
for quashing the order dated 16.09.2015 in Claim
No. 174/2013 by which the claim of the petitioner
was rejected by the Hon'ble Justice S.B. Sinha
Commission.*



ii. For the issuance of a writ of mandamus and/or any other appropriate writ/direction/ order commanding the respondents no. 2, 3 and 4 to notify the absorption of the service of the petitioner as an Assistant in S.B. A.N. College, Darhetta Lari, in exercise of powers conferred under section 4(1) (14) of the Bihar State Universities Act, 1976 and in compliance of the order dated 12.10.2004 of the Hon'ble Supreme court in CA No. 6098/1997 and in full conformity with the report of the Hon'ble Justice Aggarwal Commission.

iii. For the issuance of a writ mandamus and/or ay other appropriate writ/direction/order commanding respondents no. 1 and 2 to release the arrears of salary of the petitioner during the pendency of the instant writ petition.

iv. For the issuance of any other appropriate writ/direction/ order to ensure the grant of consequential reliefs in the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the claim petition of this petitioner, being Claim Petition No. 174/2013, was also adjudicated along with other claim petitions being Claim Petition No. 172 of 2013 filed by **Gajendra Kumar Sharma v. the State of Bihar and Others**. The claim of this petitioner, along with Gajendra Kumar Sharma (*supra*) was rejected and the rejection order passed by Justice S. B. Sinha (Retired Commission) was put to challenge before this Hon'ble Court in CWJC No. 25059 of 2018. Upon consideration of the case of Gajendra Kumar Sharma (*supra*), the following orders



were passed.

“Both the counsels are ad adum that the law is settled by the coordinate Bench in C.W.J.C. No. 8338 of 2018 (Ram Chandra Singh Vrs. The State of Bihar & Ors) decided on 06.08.2018 would govern the present case also as the petitioner is also an Assistant which is a non-teaching category-

In Ram Chandra Singh (supra) the coordinate Bench after taking into consideration the law as settled by the Apex Court in the State of Bihar & Ors. Vrs. Bihar Rajya M.S.ES.K.K. Mahasangh & Ors. reported in (2005) 9 SCC 129 proceeded to hold as under:

"Considering the judgment in C.W.JC. No. 17670 of 2017 the order of reviewing the notification of absorption of the petitioner is declared nullity, the respondents are directed to restore the petitioner the status of absorbed non-teaching employee with all consequential benefits.

Final decision as to consequential benefit must be taken by the University within a period of four months from the date of receipt/production of a copy of this order."

In the present case too, the petitioner read that issue be treated as absolved on regularized non-teaching employees and also be granted the pay and allowances.

Keeping in view above, the respondents are directed to restore the petitioner the status of absorbed non-teaching employees with all consequential benefits. The consequential benefits shall be calculated and released by the University within a period of four months from the date of submission of a copy of this order.

With the aforesaid observations and directions, this writ petition is disposed of."



4. It is the case of the petitioner that his case is squarely covered by the judgment and order passed in the case of Gajendra Kumar Sharma (*supra*) and, therefore, the present case may also be directed to be adjudicated in similar terms.

5. On the other hand, learned counsel for the State as well as learned counsel for the University submit that the authorities may be directed to adjudicate the case of the petitioner and if, upon such adjudication, the petitioner's case is found to be covered by the ratio laid down in the case of Gajendra Kumar Sharma (*supra*), whose claim was also rejected along with that of the petitioner's claim and is found to be at par with Gajendra Kumar Sharma (*supra*), then the authorities of the University may be directed to pass appropriate and necessary orders in accordance with law.

6. Considering the submissions of the parties, this Court finds it appropriate to direct the Registrar of Magadh University to take a final decision with regard to the claim of the petitioner. If, upon adjudication, it is found that the case of the petitioner is at par with that of Gajendra Kumar Sharma (*supra*) whose claim was also rejected along with the petitioner and that the petitioner is also entitled to the same and similar relief, then, after verifying the *bona fide* of the claim with reference to the



official records as well as the findings recorded by the Commission, a necessary decision shall be taken.

7. In the event that the petitioner is found similarly situated, the corresponding benefits at par shall also be extended in favour of the petitioner within a period of eight weeks.

8. Accordingly, the writ petition stands disposed of.

(Ajit Kumar, J)

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