

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL WRIT JURISDICTION CASE NO.2220 OF 2002

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LAL BABU SINGH, S/O LATE DEVI DUTTA SINGH, R/O MOHALLA DAHIawan TOLA, P.S CHHAPRA TOWN, DISTRICT SARAN AT PRESENT DEMONSTRATOR IN THE DEPARTMENT OF PHYSICS, JAGADAM COLLEGE, CHAPRA, DISTRICT SARAN.

..... PETITIONER/S
VERSUS

1. THE STATE OF BIHAR THROUGH SECRETARY HIGHER EDUCATION, GOVT. OF BIHAR, PATNA.
2. THE JOINT SECRETARY, DEPARTMENT OF EDUCATION, GOVT. OF BIHAR, PATNA.
3. BABA BHIM RAO AMBEDKAR, BIHAR UNIVERSITY, MUZAFFARPUR, THROUGH ITS REGISTRAR.
4. JAI PRAKASH UNIVERSITY, CHAPRA, DISTRICT SARAN THROUGH ITS REGISTRAR.

..... RESPONDENT/S

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

8/ 29-02-2012 In this writ application, the petitioner had made following prayer:-

"That this is an application for issuance of an appropriate writ/order or direction, directing the respondents to pay arrears of difference of salary of the petitioner from October 1971 to February 1996 amounting to Rs. 2,71,566.18/- (Rupees two lacs Seventy one thousand five hundred sixty six and paise eighteen) with interest on the Bank rate and compensation as this Hon'ble court thinks fit and proper in the facts and circumstances of the case."

Though this writ application was filed on 08.02.2002, the petitioner by filing an interlocutory application being I.A No. 5213 of 2009 had made following additional prayer:

"For issuance of a writ in the nature of certiorari or any other appropriate writ, order/direction for

quashing paragraph no. 2 of letter no. J/P2-2/9 Higher Education issued under the signature of the Sri P.K Basu, Joint Secretary, Education Department, Government of Bihar, Patna, under memo no. 1397 dated 29.09.1983, as contained in Annexure-4 to the main writ application by which it has been ordered that no arrears prior to date of publication of order shall be payable."


During the pendency of this writ application, the admissible amount as per both Universities i.e. J.P University and Baba Saheb Bhim Rao Ambedkar, Bihar University to the tune of Rs. 6280/- and Rs. 37,000/- respectively has been paid to the petitioner but that definitely would not satisfy him in view of his much bigger claim of an annual of Rs. 2,71,566/- as forwarded by the College to the University.

It thus becomes clear that there is a dispute as with regard to the entitlement of the petitioner. The petitioner also realises so, and that is how he has sought to assail the order dated 29.09.1983, whereby and whereunder, the Government while regularizing the services of the petitioner and three others on the post of demonstrators had put a specific condition that the petitioner will not be entitled for payment of any arrears prior to 29.9.1983. The petitioner, therefore, claims that his arrears

from 27.10.1971 to 29.09.1983 having been deprived by the order of the Government dated 29.09.1983, he may be allowed to assail the aforementioned order in this writ application.

In the considered opinion of this court while unexplained delay of 26 years would stare on the face of the petitioner, the Universities also cannot be blamed in carrying out the order of the Government, inasmuch as, the Universities have to make payment of the amount as per the entitlement from the funds released by the State Government. It is the order of the State Government dated 29.9.1983 which was well within the knowledge of the petitioner, for all these 26 years inasmuch as on the strength of such order the petitioner had started getting the salary of the post of demonstrator w.e.f. 29.9.1983 and thus if he did not challenge the same anytime before filing of the interlocutory application being I.A No. 5213 of 2009 on 17.08.2009, this court would not allow the petitioner to raise this question now specially when the State Government has recently constituted a Committee to look into all sort of such claims relating to payment of arrears of salary of the teaching and non teaching

staff of the Universities.

That being so, this application is disposed of with a liberty to the petitioner to move the Committee constituted by the State Government for claiming arrears of his salary. It goes without saying that once the petitioner would file such representation before the Committee, it would take a decision strictly in accordance with law and without being influenced by any thing said in this order.

With the aforesaid observations and directions this application is disposed of.

Ranjan

(Mihir Kumar Jha, J)

