
(2003) 09 PAT CK 0015
In the Patna High Court
Case No : C.W.J.C. No. 6541 of 2003

Bindeshwari Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 22-09-2003

Acts Referred:

Citation : (2003) 09 PAT CK 0015

Final Decision : Dismissed

Judgement

Radha Mohan Prasad, J.—In this writ petition, the Petitioner, who claims to have retired as Lecturer in the Department of Physics of D.A.V. College, Siwan under the Respondent J.P. University, is aggrieved by the orders dated 8.7.1999 and 20.8.1999, contained in Annexure 4 and 5 respectively, whereby the University has passed order that he shall be deemed to have been retired with retrospective effect of 31.3.1998 and the salary and allowances/advances drawn by him beyond 31.3.1998 are to be recovered from retirement benefits due to him. By Annexure 4, the Principal of the College has been directed to initiate an appropriate proceeding for his alleged misconduct to retain himself in the service beyond his actual date of superannuation on the basis of forged Matriculation certificate. By Annexure 5, the University has directed for recovery of the excess amount along with interest payable at Bank rate from the gratuity payable to the Petitioner. The Petitioner has also sought direction to the Respondents to pay entire admitted dues as well as other benefits attached to the post for which he is entitled in accordance with law with statutory interest.

2. Earlier, this Court, vide order dated 10.9.2003, directed the Respondents to come with redressal of the grievance of the Petitioner. On 15th September, 2003, a counter affidavit was filed on behalf of the Vice-Chancellor and officials of Baba Saheb Bheem Rao Ambedkar Bihar University, but there was no response from the Respondent Vice-Chancellor of J.P. University. Accordingly, this Court directed for initiation of suo motu contempt proceedings against him and, further, directed him to personally appear and file his show cause on 19th September, 2003, when

the matter was directed to be listed under the same heading within top five cases along with the contempt matter. On 19th September, 2003 the Vice-Chancellor of J.P. University had personally appeared and filed his show cause. However, as some grievance of the Petitioner was not redressed till then, this Court on the request made on his behalf, passed over the matter for being taken up today.

3. Accordingly, the Vice-Chancellor has personally appeared today and produced an Account Payee cheque of Rs. 83,380/- issued in favour of the Petitioner for payment of remaining amount towards difference of D.A. for the period November, 1992 till the date of retirement, which has been handed over to the learned Counsel for the Petitioner.

4. Learned Counsel for the Petitioner has submitted that in view of the law settled by the Apex Court in the case of Sahib Ram Vs. State of Haryana and Others, as well by this Court in the case of Smt. Sushma Prasad Vs. The State of Bihar and Others, recovery pursuant to the impugned order is not permissible.

5. I am unable to accept the said submission. It is not disputed that the impugned orders, contained in Annexures 4 and 5, were passed by the University on enquiry about the genuineness of the Matriculation certificate produced by the Petitioner from the Bihar School Examination) Board, which reported that the certificate is forged.

6. The decisions cited by the learned Counsel for the Petitioner in support of the challenge to Annexures 4 and 5 are of no avail as it is a case where recovery is sought to be made on account of forgery committed by the Petitioner. Moreover, it is by now well settled that a person, who does not come with clean hands, is not entitled to invoke the writ jurisdiction of this Court. Under such circumstances this Court does not feel inclined to interfere with the impugned orders.

7. It is submitted by the learned Counsel for the J.P. University that having regard to the facts and circumstances, this Court may be kind enough to drop the contempt proceeding and recall the order dated 10.9.2003 for payment of cost. Further, he submitted that as the calculation has been done hurriedly, the University may be given liberty to make recovery of any excess amount paid on account of wrong calculation.

8. Having regard to the facts and circumstances of the present case, the contempt matter is hereby dropped and the M.J.C. application is dismissed and the order dated 10.9.2003 with respect to cost is hereby recalled. The writ application is, accordingly, disposed of with the liberty to the University to make recovery of any excess amount on account of wrong calculation with respect to the dues payable to the Petitioner.