

(2020) 02 PAT CK 0018

In the Patna High Court

Case No : Letters Patent Appeal No. 1291 Of 2018 In Civil Writ Jurisdiction Case No. 5818 Of 2018

Dr. Sushil Kumar Singh

APPELLANT

Vs

B.N. Mandal University And Ors

RESPONDENT

Date of Decision : 05-02-2020

Acts Referred:

Citation : (2020) 02 PAT CK 0018

Hon'ble Judges : Hemant Kumar Srivastava, J;Prabhat Kumar Singh, J

Bench : Division Bench

Advocate : Purushottam Kumar Jha, Ashutosh Ranjan Pandey

Final Decision : Disposed Of

Judgement

Heard learned counsel appearing for the appellant, learned counsel appearing for the B.N. Mandal University, Madhepura and learned counsel appearing for the State.

This Letters Patent Appeal has been preferred against impugned order dated 20.04.2018 passed by learned Single Judge in C.W.J.C No. 5818 of 2018

by which and whereunder learned Single Judge directed the concerned University to calculate the arrears of the appellant and shall ensure payment of

the same within a stipulated period. Furthermore, the learned Single Judge directed the concerned respondents to pay interest @ 9% from the date of

filing of this writ application if the respondents failed to comply the order of the court, within the stipulated period, as fixed by learned Single in order

dated 20.04.2018.

Learned counsel appearing for appellant submits that the learned Single Judge wrongly refused to make order in respect of interest due upon the

arrear of salary of the appellant. Learned counsel of the appellant having relied upon judgment dated 13.07.2012 passed by a Division Bench in L.P.A

No. 32 of 2011 submits that in the aforesaid decision, a Division Bench of this court granted interest from the due date of the arrear of salary and the

principle as adopted by the Division Bench in the above-stated L.P.A No. 32 of 2011 is completely applicable in the present appeal also.

On other hand, learned counsel appearing for the University submits that the University has already calculated the dues amount of the appellant, and,

after calculation, sent the same to the State Government for ensuring the payment and, as a matter of fact, matter is pending with the State.

Learned counsel appearing for the State submits that no doubt, matter of payment of arrear of salary of the appellant is pending with the State

Government, but as a matter of fact, the University could have made payment to the appellant from the internal fund of the University. He further

submits that so far as, claim of the appellant in L.P.A is concerned, the same is not tenable because the learned Single Judge has specifically

mentioned in the impugned order that the appellant is not entitled to get interest on payment of dues.

Having heard the contentions of the parties, we went through the record. In the present matter, it is an admitted position that the appellant was

promoted to the post of reader under the time bound promotion scheme with effect from 30.12.1984, in the prescribed pay scale of Rs. 3000/- with all

admissible allowances as per provision of the Act and Statutes and the notification of his promotion was published on 05.09.2012 which is evident from

Annexure-7 to the writ petition. It is obvious from perusal of Annexure-7 to the writ petition that the appellant became entitled to get his due salary on

05.09.2012 when the above-stated notification came into existence. Though, the effect of aforesaid notification was given from 30.12.1994, but as a

matter of fact, the appellant was not satisfied with the date of fixation of his salary and he challenged the date of fixation of his salary before this court

by filing writ petition which was allowed on 29.08.2016, and, thereafter, the appellant filed representation before the concerned University on

06.09.2016.

In the aforesaid circumstance, in our view the appellant is entitled to get interest on his dues @ 9% p.a. from 29.08.2016, when the order was passed

in C.W.J.C No. 3025 of 2016, till the actual payment is made. Accordingly, the impugned order dated 20.04.2018 stands modified and, in the aforesaid manner, this letters patent appeal stands disposed of.