
(2008) 07 PAT CK 0119
In the Patna High Court
Case No : CWJC No. 2949 of 2007

Prof. (Dr.) Bidya Nath Jha

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 17-07-2008

Acts Referred:

Constitution of India, 1950 — Article 21, 226

Citation : (2008) 56 BLJR 2398 : (2008) 4 PLJR 442

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Judgement

Navin Sinha, J.—Heard learned Counsel for the petitioners, learned Counsel for the State and learned Counsel appearing on behalf of the University.

The claim in this batch of writ applications is for certain arrears of salary, difference of U.G.C. pay scale etc.

2. This Court in CWJC No. 14817 of 2006 by order dated 16.07.2008 in context of the Magadh University has already held that the issue of payment of salary was basically a administrative matter unless legal issues of entitlement, eligibility etc. arise. No such questions arise presently in this batch of writ applications also. Essentially the burden of the administrator is sought to be cast on the Court.

3. The Respondent-University is stated to have created a grievance cell for examination of grievances such as the present. The petitioners are, therefore, granted liberty to submit their claims by representation to the grievance cell of the University. The University is then directed to examine the claims of the individuals within a maximum period of three months from the date of receipt or presentation of such claim by each individual petitioner. If the University comes to the conclusion of disentitlement of the claim or any part of the claim, it shall be obliged to forthwith communicate the reasons in writing to the individual petitioner concerned.

4. After the Registrar of the University shall examine the claim of each individual

petitioner and determine its admissibility in so far as the University is concerned, it shall forthwith within a period of one month thereafter place the same before the Principal Secretary, Department of Higher Education, Government of Bihar.

5. On the date that the Registrar places the aforesaid information before the Principal Secretary, the latter shall within a period of four weeks frame out a schedule for sitting along with the Registrar of the University. In accordance with this schedule framed by the Principal Secretary to the State Government, the Registrar shall be obliged to place before the Principal Secretary, the records of such employees along with all other necessary materials on basis of which the University determines his eligibility for the satisfaction of the Principal Secretary. The Registrar of the University is directed to go prepared with all documents and materials to answer any queries that the Principal Secretary may have on behalf of the State Government. The Registrar of the University shall be bound to furnish any additional information to the Principal Secretary within a period that the Principal Secretary may grant for the purpose. Based on this exercise the Principal Secretary and the Registrar of the University shall arrive at a final determination of the admissible dues payable to a petitioner. This exercise must be completed within a period of three months from the date that the Principal Secretary frames out the schedule for sitting for examination of individual cases. Based on this aforesaid exercise the quantum of admissible dues payable to each of the petitioners shall be then assessed conjointly. Necessary funds shall then be released by the State Government in the individual name of the petitioners though by a common order. This Court is informed that the dues are large. That there may be others apart from the petitioners who had chosen not to come to the Court, the Principal Secretary shall have the discretion to equitably distribute the admissible dues, if necessary, in staggered manner also, so that the benefits start flowing to those entitled to it.

6. This Court sitting under Article 226 of the Constitution at this stage is primarily concerned with the issue of denial of salary which necessarily invokes Article 21 of the Constitution of India. The direction of this Court presently is to the Respondent-authorities to discharge their administrative duties in conjunction with each other and for the lack of which the petitioners cannot be allowed to suffer. If this administrative exercise is not completed in the manner and within the time prescribed that shall clearly amount to flouting the orders of this Court.

7. The Principal Secretary to the State Government and the Registrar of the University shall, if necessary, be assisted by requisite personnel in such sittings. Additionally, the Principal Secretary to the State Government is also given the liberty in the event of his inability for administrative reasons to nominate any other senior Class I Officer to preside over such conjoint sittings.

The writ applications are, accordingly, disposed.