
(2015) 01 PAT CK 0045

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 21804 of 2013

Rakesh Kumar Srivastava

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 19-01-2015

Acts Referred:

Citation : (2015) 01 PAT CK 0045

Hon'ble Judges : Ajay Kumar Tripathi, J.

Bench : Single Bench

Advocate : Abhinav Srivastava, for the Appellant; Vivekanand Singh, A.D. to G.A., Advocates for the Respondent

Final Decision : Allowed

Judgement

Ajay Kumar Tripathi, J.—Claim of the petitioner for arrears or difference of salary relates to the period 20.11.1982 to 31.12.1995. This is in relation to the post of Demonstrator which the petitioner had held at the relevant time and is based on the notification of the University, contained in Annexure-5, giving recognition to the service of the petitioner as a Demonstrator on regular basis.

2. It is the stand of the petitioner that during that period, even after takeover ad-hoc and inconsistent payment used to be made by the University and the petitioner never got payment as per the pay-scale on the post of Demonstrator. The claim of the petitioner was verified by the audit team, in Annexure-10, and the entitlement has been worked out and recommended, which would be evident from perusal of Annexure-10. Despite the above position, the respondent authorities failed to act and pay the rightful due to the petitioner and, therefore, the writ application.

3. No doubt, a counter affidavit has been filed on behalf of the University, but a totally absurd stand and position has been taken in the counter affidavit without understanding the issue raised by the petitioner. The Court has gone through the counter affidavit and is in agreement with the counsel for the petitioner that an

issue not even relevant to the relief prayed for in the present writ application has been sought to be raised to deny the benefit of arrears or difference of salary on the post of Demonstrator.

4. The counter affidavit, therefore, is required to be ignored. A direction is issued upon the University that on the verification of the calculation of the audit team, contained in Annexure-10, they have an obligation to make payment to the petitioner of the arrears so calculated and worked out.

5. Such payment must be made within a period of three months from today.

6. The University Registrar is present in person. He informs the Court that the State Government has authorized payment of arrears only to the extent of 55% and the balance 45% has not yet been released. It is expected to be released in the financial year 2015-16.

7. In absence of any clear notification showing that position of the State, the Court directs the University to pay the entitlement of the petitioner within the time frame so fixed because petitioner has already superannuated and the money which he is claiming, now was rightfully due to him for a very -very long time, which the University authorities have failed to pay to him, without their being any serious doubt with regard to his entitlement.

8. The writ application is allowed with the above direction.