

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4652 of 2020

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Md. Shahid Son of Late Jahid Resident of Village- Chalka, Post Office-
Ratanpug, Police Station- Muffassil, District- Bhojpur, Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Department, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Human Resources Department, Government of Bihar, New Secretariat, Patna.
3. Vir Kunwar Singh University Ara through its Registrar.
4. The Vice Chancellor Vir Kunwar Singh University, Ara.
5. The Registrar Vir Kunwar Singh University, Ara.
6. The Principal S.D. Jain College, Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjeev Kumar Mishra, Senior Advocate. Ms. Adya Pandey, Adv.
For the Respondent/s	:	Smt. Binita Singh (SC28)
For VKSU	:	Mr. Arabind Nath Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL JUDGMENT

10 **25-08-2025**

Heard Mr. Sanjeev Kumar Mishra, learned Senior Counsel for the petitioner duly assisted by Ms. Adya Pandey, Smt. Binita Singh, learned SC-28 for the Respondents-State and Mr. Arabind Nath Pandey, learned counsel representing the Vir Kunwar Singh University, Ara.

2. The present petition has been filed for the following relief(s):-

“(i) For quashing the order contained in Memo No. 3302 dated 07.12.2019 issued under the signature of the respondent Vice Chancellor



by which the earlier letter dated 24.9.2018 passed by the then Vice Chancellor was modified in terms of letter no. 702 dated 25.7.2019 issued by the Pay Verification Cell, education Department, Government of Bihar.

(ii) For quashing the order contained in letter no. 702 dated 25.7.2019 issued by the Pay Verification Cell, Education Department, Government of Bihar by which the pay scale has not been provided to the petitioner in light of the letter contained in Memo no. 1139 dated 18.6.2014 issued under the signature of the Joint Secretary, Education Department, Government of Bihar.

(iii) For issuance of an appropriate writ in the nature of mandamus commanding the respondent authorities to pay the scale of 5500/- to 9000/- as per the pay scale provided by the state government vide its letter contained in Memo no. 1139 dated 18.6.2016 issued by the Department of Education, Government of Bihar with effect from 1.4.1997.

(iv) Any other order or orders as your lordship may deem fit and proper and in the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the petitioner was initially appointed on the post of Lab Incharge at H.D. Jain College, Ara and since then he discharged his duties



to the full satisfaction of his superiors. Further, *vide* Notification as contained in Memo No. 1040 dated 21.11.2007, the petitioner is said to have been promoted on the post of Storekeeper. It has next been submitted that the promotion so granted to the petitioner was cancelled by the order of the Vice Chancellor, Vir Kunwar Singh University, Ara, which is contained in Memo No. 686 dated 20.08.2011.

4. It is the case of the petitioner that the order of cancellation dated 20.8.2011 was challenged by the petitioner by filing a writ petition bearing CWJC No. 16260 of 2011, which was allowed *vide* order dated 16.12.2011 and the order dated 20.08.2011 was quashed by this Hon'ble Court. It has next been submitted that the order passed by the Hon'ble Court was given effect to, and the petitioner was restored to the post of Storekeeper but was not allowed the pay-scale of 5500/- to 9000/- w.e.f 01.04.1997.

5. It is in this background, non-teaching employees of the University went on strike and due to strike, the studies of the University/Colleges got affected and accordingly, the students sought intervention of the Hon'ble the Chief Justice of Patna High Court by sending letters to this effect, who treated the said letter sent by the students as Public Interest Litigation.



Thereafter, a formal writ petition bearing CWJC NO. 17870 of 2008 was registered and necessary directions were issued for implementation of the commitment given by the State Government during the period of strike. It is further submitted that despite representation having been made by the petitioner before various forums, no heed was paid by the authorities concerned and accordingly, the petitioner was compelled to file another writ petition bearing CWJC No. 1813 of 2017, which was disposed of *vide* order dated 07.09.2017 with a direction to the petitioner to file a representation before the respondent concerned and the same was directed to be considered and disposed off by a reasoned order within two months from the date of filing of the representation.

6. It has next been submitted by the petitioner that after having obtained the certified copy, the petitioner immediately submitted the representation before the authorities concerned in terms of the direction issued by the Hon'ble Court, the authorities came out with one order whereby the claim of the petitioner was rejected and on finding the petitioner being aggrieved, the petitioner again challenged the said order by instituting the present writ petition.

7. Learned counsel for the petitioner has drawn



attention of this Court towards certain recommendations with regard to pay-scales as against the post notified within the Universities with regard to teaching and non-teaching employees.

8. On the strength of such recommendation made by the Pay Revision Committee, the petitioner has tried to impress by saying that there is no minimum qualification which is prescribed for Storekeeper to be classified as Assistant, and therefore, the action of the respondent in not granting the respective pay-scale attached for the post of Assistant is not in accordance with law and the authorities may be directed to grant such benefit, as the petitioner is validly promoted and appointed on the post of Assistant from the post of Storekeeper and the rejection of grant of said pay scale by the Pay Verification Cell of the State Government is beyond jurisdiction and capacity to the law laid down in *State of Bihar & Ors. vs. Sunny Prakash & Ors.* Reported in *(2013) 3 SCC 559*.

9. On the contrary, learned counsel for the University has drawn its attention by referring to the affidavits filed in this regard and has taken this Court to the statements made in the counter affidavit wherein it has been stated that Pay Verification Cell, Department of Education, Government of Bihar has



replied to the letters of VKSU, Ara bearing letter nos. A/C/338/Estab/19 dated 01.02.2019, AC/259/Estab/19 dated 07.05.2019, AC/177/Estab/2019 dated 04.07.2019 and has not accepted the scale as fixed by the University *vide* letter no. 702 dated 25.07.2019 contained in Annexure-10 of the writ petition. Further, by referring to the following paragraphs, it has been stated that the Director, Higher Education, Government of Bihar *vide* letter no. 15/M1-93/2021-2058 dated 30.09.2021 has also raised objection on the pay fixation of the petitioner. It has been observed that the petitioner was not possessing the requisite qualification at the time of his promotion. The petitioner has passed the Madhyama examination in 2006 and intermediate in the year 2014 and there is no information about passing of the graduation examination. He has also been promoted from Class-IV grade to Class III grade, whereas there is no provision for such promotion in Bihar State University Act, 1976.

10. Learned counsel for the university has also drawn attention of this Court to paragraphs-5 and 8 of the counter which are as follows:-

“5. That it is stated that in compliance of the order dated 07.09.2013 passed in C.W.J.C. NO 1813 of 2017 and the representation dated 26.09.2017 submitted by



the petitioner was disposed of on 24.09.2018 by the then Vice chancellor, V.K.S.U. Ara and notification was issued on 25.09.2018 vide memo no 2525/18 contained in Annexure 9 of the writ petition stating there in that the payment of arrears of salary of the petitioner will be made after verification of necessary papers of the petitioner from the pay verification Cell, Education Department, Government of Bihar.

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8. That it is stated that the University has passed an order regarding pay fixation of the petitioner vide Memo No. 693/Estab/19/3302 dated 07.12.2019. The important aspect of the order is given below:-

“ The university has sent the necessary documents of the petitioner to the pay verification cell regarding fixation of pay scale and its verification The pay verification cell sent verification report by letter no 702 dated 25.07.2019 stating that Sankalp no 1139 dated 18.06.2014 is not applicable in the revised pay scale and it is applicable to those employee who are duly appointed as storekeeper with requisite qualification. The pay verification cell did not accept the claim of the petitioner Thus the petitioner is not found entitled to pay scale of Rs 5500-9000 and replace pay scale Rs 9300-



34800.

In the fact and circumstances as stated above the earlier order dated 24.09.2018 passed by the then vice chancellor was modified in terms of letter no 702 dated 25.07.2019 issued by P.V.C of state Government and order was passed that the notification dated 25.09.2018 issued by memo no 2525 will also be treated as modified to that extent. The concerned section is directed to issue modified notification in this regard contained in Annexure 11 of the writ petition.

11. Learned counsel for the State was called upon to make his submission pursuant to which, he has made the following submissions by referring to paragraph-7:-

“7) That it is humbly stated that the answering respondent is stating the background of issuance of the memo no. 1139 dated 18.06.2014 (wrongly mentioned as 18.06.216), which is as follows:-

The following agreement was arrived between the Employees Federation and the State Government on 17.07.2007:

"1. 50% Dearness Allowance may be merged with Basic Pay.

2. Medical Allowance may be increased from Rs. 50/- (Fifty) to Rs. 100/- (Hundred).



3. Facility of ACP may be given to the employees.

4. Head Assistant and Accountant of the colleges may be designated as Section Officer at the departmental level.

5. Pay scale of Rs. 5500-9000 may be granted to the Assistants of colleges and university.

6. Assistant Librarian and PTI who are possessing qualification fixed by UGC. may be granted UGC pay scale.

7. **Library Assistant, Sorter, Routine Clerk, Correspondence clerk may be granted a pay scale of Rs. 4000-6000 at Departmental level.**

(emphasis supplied)

8. Facilities of accumulation of 240 days Earned Leave and encashment may be granted to the employees at par with the employees of state government which will be admissible similarly to the class III and class IV grade employees.

9. Ward servant may be designated as Hostel servant.

10. Anomalies regarding the pay scale of University Engineer Assistant Engineer and Junior Engineer and Electrician may be removed.

11. Store Keeper may be treated as an Assistant and pay scale may be given accordingly."

(emphasis supplied)

CWJC No. 10870 of 2008 was filed in the nature of public interest litigation before this



Hon'ble Court. The said writ application was allowed by this Hon'ble Court by Judgment and order dated 07.08.2008 to ensure that commitment given by the State Government to the Federation having been reduced in writing on 18.07.2007, is honoured by the State Government and it is implemented within one month.

against the aforesaid order dated 07.08.2008 passed in CWJC No. 10870 of 2008, the State Government preferred S.L.P. (C) No. 22617 of 2008 which was converted into Civil Appeal No. 516 of 2013. The said Civil Appeal was dismissed by Hon'ble Supreme Court vide order dated 18.01.2013 and the State of Bihar was directed to implement the Judgment and order of the Hon'ble Patna High Court dated 07.08.2008.

That in view of the order and judgment dated 18.01.2013 passed in Civil Appeal No. 516 of 2013 and Contempt Petition (Civil) No. 262 of 2013, the State Government vide memo no. 1139, dated 18.06.2014 has granted the pay scale of Rs. 5500-9000, actual payment to be made with effect from 01.04.1997 to the employees of the University and Constituent Colleges who are legally working on the valid sanctioned post of Store Keeper.

That subsequently, in view of the aforesaid order passed in Civil Appeal No. 516 of 2013, the State Government vide memo no. 1192, dated 23.06.2014 has granted the pay scale of Rs. 5500-9000 actual payment to be made with effect



from 01.04.1997 to the employees of the University and Constituent Colleges who are legally working on the valid sanctioned post of Assistant.

Both the letters unequivocally state that the same are being issued in special circumstances and the same cannot be used as a precedent in other matters.

Agreement no. 11 says that the Store Keeper may be treated as an Assistant and pay scale may be given accordingly hence only those store keeper will get the pay scale of Assistant who will hold the requisite qualification of Assistant.

12. Learned counsel for the State next submitted that the petitioner has been promoted on the post of Storekeeper on 21.11.2007 and his educational qualification is intermediate. It has next been submitted that the Memo No. 1192 dated 23.06.2014, has been the subject matter of CWJC No. 9677 of 2014, which is said to have been relied upon by the parties and by referring to the order dated 29.11.2006, learned counsel for the State submits that the Hon'ble Court has observed that from plain reading of the said Notification itself, it indicates that there shall be two kinds of pay scales, one for matric and other for holder of graduation degree and since the petitioner is matriculate, the pay-scale applicable for him is Rs. 4,000-



6,000/-. Such observation has been made by the Hon'ble Court with regard to writ petitioner of that case, who had sought similar relief as has been prayed by the petitioner in the present case.

13. Learned counsel for the State has further drawn attention of this Court with regard to certain orders having been passed by this Hon'ble Court in CWJC No. 7765 of 2019 wherein it has categorically been observed by the Hon'ble Court in paragraph-7 of the judgment/order, which are being reproduced hereunder:-

“7. Respondents have filed counter affidavit. A supplementary counter affidavit filed on behalf of the Registrar of the University is also on record in which it is, inter alia, stated that vide letter dated 23.06.2014 and 18.09.2014 (Annexure-E series to the supplementary counter affidavit) it is brought on record that the Department of Education, Government of Bihar clarified that the pay scale and grade of Assistant will be given to those Store Keepers who have requisite qualification for the said post. The requisite qualification for the post of Assistant is Graduation but the petitioner is matriculate and thus he is not at all entitled to pay scale of Rs. 5500-9000 as per the guidelines of the State Government.



14. Learned counsel for the State has further relied upon the judgment passed by the Co-ordinate Bench of this Court in ***CWJC No. 9677 of 2014 (Bishwanath Sah v. The Tilkamanjhi Bhagalpur University & Ors)*** wherein the Hon'ble Court has observed as follows:-

“Heard learned counsel for the parties.

The State as well as the university has filed counter affidavit. Their stand is that based on the notification, dated 23.06.2014 (A) to counter affidavit of State, issued under the signature of the Joint Secretary, Department of Education, Government of Bihar, Patna, the pay-scale stood revised and benefit extended. A reading of the said notification itself indicates that there shall be two kinds of pay-scales, one for matric and other for holder of graduation degree. Petitioner is a matriculate and, therefore, the pay-scale for him is Rs. 4,000-6000/-.

After much exercise done by the petitioner, he in his rejoinder application has annexed Annexure-12 and based on this notification, dated 29th of August, 1996, he submits that even a Praveshika is as good as graduate and, therefore, he must get the benefit to which he is asking for.

Counsel for the university has very



rightly pointed out that the notification in question pressed into service has been quoted out of context and this meant for the employees working in the Governor Secretariat and nothing to do with the university.

There is no mystery why the petitioner is earning or had earned a lower pay-scale viz-a-viz his other colleagues. The distinction is in the qualification and not the post.

The petitioner cannot earn and beget anything different from what has been notified for people like him with the kind of qualification he has. Therefore, the plea of discrimination is misplaced.

Writ application has no merit, it is dismissed.”

15. On the contrary, learned counsel for the petitioner has brought on record certain orders which have been passed in similar background, where the Co-ordinate Bench of this Hon'ble court have set aside the objections of the Pay Verification Cell and remanded the matter for fresh consideration by providing opportunity of hearing by allowing the petitioner to place all the supportive materials to buttress the relief so submitted.

16. Learned counsel for the petitioner has rebutted



the submissions of learned counsel for the State and that of University by bringing on record certain orders passed by Co-ordinate Benches of this Hon'ble Court in ***CWJC No. 7636 of 2014 (Dr. Kedar Nath Pandey & Ors. v. The Magadh University & Ors)*** and in ***CWJC No. 16104 of 2014 (Surya Deo Paswan v. The State of Bihar & ors)***. In both the cases, the legal issues raised and the deliberation, which is said to have been made are common in nature and taking into account the breach of principles of natural justice in deciding the claim of petitioner with regard to grant of pay-scale and further by recording that it is settled principles of law that if by a decision some civil consequences follow, in that event, the aggrieved must be heard. In the present case, there was a specific direction of this court to pass a reasoned order but from perusal of the order passed, it does not appear that all such grounds which have been taken to oppose the prayer of the petitioner, seems to have been considered and by way of a very cryptic order, the claim has been rejected. It is well settled in law by various judgments passed by the Hon'ble Apex Court in ***Civil Appeal No. 516 of 2013 (State of Bihar & Ors. vs. Sunny Prakash & Ors.)*** that pay verification cell cannot take a decision unilaterally with regard to scaling down the pay-scale of the



University.

17. In the present case, the question is, as to whether the petitioner does possess a requisite qualification for being promoted in the Assistant Cadre from the post of Storekeeper and it is the case of the petitioner that at the time when the petitioner was appointed, the minimum qualification was matric and even though with the passage of time, if the qualification for appointment on the post of Storekeeper has been enhanced, still the appointment of the petitioner on the post of Storekeeper cannot be questioned and the decision to promote the petitioner in the Assistant Cadre with Pay Scale of Rs. 5500-9000/- cannot be denied.

18. On the contrary, learned counsel for the University submits that he was not appointed on the post of Storekeeper directly whereas he was initially Lab-bearers and thereafter, was taken to the post of Storekeeper and therefore, the claim of the petitioner that he was validly appointed on the sanctioned post of Storekeeper is wholly misplaced and therefore the petitioner's entitlement as claimed for the pay-scale of Rs. 5500 to 9000/- is wholly misconceive and cannot be granted.

19. It is the case of the petitioner that he is the only



Storekeeper in the University and therefore, the question of classification of two pay-scales depending upon the source of appointment on the basis of qualification of matriculate and graduate is not applicable in case of the petitioner. Whatever ground, which has been taken by the counsel for the State and University, does not find place or is reflected from the order impugned and further, even if, the said grounds which are taken on record, still the counsel for the State has not come out with any document showing the qualification of the Storekeeper at any point of time was graduate and even rebuttal to the same has not been invited on the issue by the petitioner while passing the impugned order and further the principles of natural justice was not followed at the time of such scaling down of the scale, to which the petitioner is entitled.

20. Considering the facts and circumstances aforesaid, it is quite clear that petitioner has not been given hearing and various facts have come on record by way of counter affidavit, which needs to be adjudicated by giving proper hearing to the parties and since there is violation of principles of natural justice rejecting the claim of the petitioner and even though the submissions of the learned counsel for the University and that of State is accepted, in that event also, the



fact remains that the petitioner has not been allowed to rebut by bringing on record the supportive materials to justify his claim, for which the petitioner is aggrieved and the instant writ petition has been filed.

21. In such background, it would be appropriate that learned counsel for the petitioner may be directed to submit a detailed representation before Respondent No.4/ the Vice Chancellor, Vir Kunwar Singh University, Ara, who would be obliged to give a proper hearing by allowing the petitioner to submit his claim with supportive documents within a period of two weeks from the date of order, and in the event, the petitioner submits such representation with supportive materials, the Respondent No.4 would be obliged under law to pass a reasoned and speaking order deciding the claim of the petitioner strictly in accordance with law so that the grievance of the petitioner that scaling down of his scale may not be called to have been passed in breach of principles of natural justice and further can be protected in law. In case of non submission, within the time specified, the necessary order shall be passed in accordance with law within a period of six weeks from the date of communication of the order by the University counsel, and the reasoned order so passed shall be communicated to the



petitioner thereafter.

22. In case, the petitioner’s claim is found to be satisfactory, in that event, the benefit shall be extended to him within next one month thereafter.

23. The writ petition with the aforesaid direction and observation stands disposed of.

(Ajit Kumar, J)

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AFR/NAFR	AFR
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