

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12043 of 2022

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Pitamber Jha S/o Late Ashrfi Jha, resident of Village- Barhmotra, P.S.- Pandaul, District- Madhubani, retired as Head Assistant (Accounts), R.N. College, Pandaul, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Vice- Chancellor, Lalit Narayan Mithila University, Darbhanga.
4. The Registrar, Lalit Narayan Mithila University, Darbhanga.
5. The Finance Officer, Lalit Narayan Mithila University, Darbhanga.
6. The Principal, R.N. College, Pandaul, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh, Adv
For the Respondent/s	:	Mr. Madhaw Pd. Yadaw (Gp23)
For the University	:	Mr. Iqbal Asif Niazi, Adv

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 14-05-2026

Heard the learned counsel for the petitioner, the learned counsel for the State and the learned counsel appearing on behalf of the L.N. Mithila University, Darbhanga.

2. The present writ petition has been filed for the following reliefs:-

“(i) For Issuance of an appropriate writ in the nature of Certiorari for quashing the pay slip issued by Pay Verification Cell whereby the pay scale of the petitioner has been slashed to Rs. 9300-34,800/- grade Pay



Rs.4600/- from Rs. 15,600-39,100/- grade Pay Rs.6600/-and entire pre and post retiral dues has been adjusted and Rs. 22,08,744/-Is shown as recoverable from the petitioner, the impugned pay slip is based on completely erroneous facts and contrary to the notifications issued by the State Govt. regarding fixation of pay scale and also in contravention of law laid down by the Hon'ble Supreme Court (State of Bihar & ors. Vs Sunny Prakash & ors.) in Civil Appeal No. 516/2013 order dated 18.01.2013, moreover, the Pay Verification Cell has no legal right to alter the pay scale of the petitioner which is fixed by Statutory Pay Fixation Committee.

(II) For Issuance of an appropriate writ in the nature of Mandamus, Commanding and directing the respondent authorities to pay entire pre and post retiral dues including GIC @ 12.5% and DDA @ 9% compound in view of law laid down by the hon'ble Court in 2006 Vol-IV PLJR, 369 and other admitted dues.

(iii) For Issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ



petitioners shall be found entitled under the facts and circumstances of the case.

3. The brief facts giving rise to the present writ petition are that the petitioner was appointed as Typist-cum-Assistant in R.N. College, Pandaul by the Selection Committee of the Governing Body and he gave his joining on 07.11.1968. The college in question was taken over in the year 1977 by the State of Bihar and the services of the petitioner was treated to be as a permanent employee of the University. A list of teaching and non-teaching employee was published, wherein the name of the petitioner finds mentioned at Serial no. 05. His designation has been mentioned as Office Assistant and the date of the joining as 07.11.1968. The petitioner was promoted to the post of Head Assistant w.e.f. 01.01.2006, on the recommendation of the University Selection Committee contained in Memo no. 13407-44/12 dated 21.09.2012. The name of the petitioner finds mentioned at Serial no. 01 of the Memo dated 21.09.2012 and his promoted post has been mentioned as Head Clerk (Account). Even the pay fixation of the petitioner was made by the Statutory Pay Fixation Committee of the L.N. Mithila Unveristy, Darbhanga. From perusal of the Annexure-3 series to the writ petition i.e. the pay fixation chart, wherein the name of



the petitioner appears at serial no. 03 and his designation has been mentioned as Assistant. His pay as on 01.01.1996 was fixed at Rs. 9100/- in the pay-scale of Rs. 6500-10500/- and on 01.03.2006, the same was fixed at Rs. 10700/-. After passing of the order by the Hon'ble Supreme Court of India in Contempt Petition No. (c) 262 of 2013, (**Bihar State University and College Employees Federation Vs. Ashok Kumar Sinha & Ors**), the petitioner filed a representation before the Vice-Chancellor of the L.N. Mithila Univeristy, Darbhanga on 03.10.2017, for payment of pre and post retiral dues. The Pay Fixation Committee of the University, fixed the pay of the petitioner and others, which has been brought on record by the petitioner vide Annexure-7 to the writ petition. From perusal thereof, it would transpire that the petitioner has been designated as Assistant/Head-Clerk (Accounts) and his basic pay as on 01.01.2006 has been fixed at Rs. 28830/-in the pay band of Rs. 15600- 39100/- with grade pay of Rs. 6600/.

4. The petitioner superannuated after attaining the age of superannuation w.e.f. 30.06.2010 and all the pensionary benefits were paid to the petitioner in the pay-scale of Rs. 9300-34800/- with grade pay of Rs. 4600. A writ petition was filed by the petitioner bearing C.W.J.C. No. 9939 of 2019 for payment of



difference of salary on account of grant of benefits of ACP and MACP, in terms of the fixation made by the University vide Anenxure-3 to the present petition. The writ petition was disposed of vide order dated 02.05.2019 with a direction to the petitioner to file a representation before the Registrar, L.N. Mithila University, Darbhanga within a period of four weeks from the date of passing of the order, along with the order of the Hon'ble Supreme Court of India passed in Contempt Petition (C) No. 262 of 2013 and the University was directed to take a call and make payment within a period of 12 weeks. It appears that when the order dated 02.05.2019 passed in C.W.J.C. No. 9939 of 2019 was not being complied with by the University Authorities, the petitioner preferred M.J.C. No. 5025 of 2019, however, the same was disposed of by giving liberty to the petitioner to assail the pay verification certificate, which was issued during pendency of the contempt petition issued by the pay verification cell of the State Government, whereby the pay of the petitioner was fixed at Rs. 9300-34800/- with grade pay of Rs. 4600/- as on 01.07.2009. On account of issuance of the said pay verification certificate by the State Government, the University adjusted excess amount to the tune of Rs. 22,08,744/- on account of the pay fixation made by the Pay Verification Cell



of the State Government.

5. The learned counsel for the petitioner submits that after 11 years of the retirement of the petitioner he has been designated as Head Assistant-cum-Accountant and his basic pay as on 01.07.2009 has been fixed at Rs. 14400/- with grade pay of Rs. 4600/-, which is lower than the pay fixed by the University on the said date. He further submits that the basic pay of the petitioner on 01.01.1996 has been reduced to Rs. 4900/- instead of Rs. 8300/-, fixed by the University and similarly, the pay of the petitioner on 01.01.2006 has been fixed at Rs. 11820/- with grade pay of Rs. 4200/- instead of Rs. 22230/- with grade pay of Rs. 6600/-.

6. The learned counsel for the petitioner submits that the action of the respondent-State and its authorities under the pay verification cell, is in complete violation of the judgment passed by this Hon'ble Court and the undertaking given before the Honb'le Supreme Court of India in the case of **(Sunny Prakash Vs. State of Bihar and Ors)**. He submits that before fixation of the pay-scale of the petitioner in lower side, no notice whatsoever was given to the petitioner, which has been stated by the petitioner in paragraph no. 24 of the writ petition. He submits that the action of the respondent-authorities



of the pay verification cell is in violation of the principles of natural justice and is in teeth of the directions issued vide letter no. 1448 dated 24.07.2015 under the signature of the Joint Secretary to the Government, Department of Education, Government of Bihar, Patna, whereby in terms of the order dated 15.01.2015 passed in C.W.J.C. No. 7636 of 2014 (**Kedar Nath Pandey & Ors. Vs. State of Bihar and Ors.**), the State Government has in paragraph no. 4, it has been categorically stated as under:

यदि विश्वविद्यालय अथवा संबंधित शिक्षक/कर्मि द्वारा प्रस्तुत किए गया पक्ष संतोषप्रद प्रतीत नहीं होता है तो राज्य सरकार विश्वविद्यालय को एक समय सीमा के भीतर समूचित आदेश निर्गत करने हेतु निदेश जारी कर सकेगा। परंतु विश्वविद्यालय के किसी आदेश में संशोधन अथवा आदेश के संदर्भ में कोई स्पष्टीकरण या अंतिम निर्णय विश्वविद्यालय द्वारा ही लिया जा सकेगा।

7. Per contra, the learned counsel appearing on behalf of the State submits that the pay fixation of the petitioner has been done by the State Government in terms of the directions given by the this Hon'ble Court in C.W.J.C. No. 7636 of 2014. She submits that the Hon'ble Chancellor vide letter no. BSU-41/2013-429 dated 04.03.2014 has approved the revised statute with respect to the service conditions of the non-teaching



officers and employees of the University and Colleges and for grant of ACP and MACP to them. The non-teaching employees of the University were granted the benefits of ACP / MACP w.e.f. 09.08.1999 and 01.01.2009 respectively, as has been given to the employees of the State Government and since the petitioner has already superannuated in the year 2010, he was granted the benefit of ACP/ MACP, w.e.f. 1999 and 2009 respectively. Thereafter, pay fixation was made by the University and the same was sent to the Pay Verification Cell of the Education Department for its verification. The Pay fixation made by the University and the documents enclosed thereto were examined by the P.V.C. and it was found that the fixation of the pay of the petitioner was made in higher scale, for which he was not entitled as well as up-to-date fixation was made and accordingly vide letter no. 79 dated 13.01.2022, some query was made from the University. The said query was responded by the University vide letter no. 758 dated 14.01.2022, whereby the University sent a fresh pay slip of the petitioner and on the basis of the same, it was found that the pay of the petitioner as on 01.01.2009 has been fixed at Rs. 18130/-, whereas as per the calculation of the P.V.C., it should have been Rs. 18440/- and Rs. 19000/- as on 01.07.2009. Accordingly, vide letter no. 83



dated 16.01.2022, again a request was made to the University to send corrected copy of the pay fixation. Subsequently, vide letter no. 759 dated 17.01.2022, a fresh pay fixation was made and same was sent to the State Government, which was found by the P.V.C. to be in terms of the resolution issued by the State Government from time to time and accordingly the pay verification certificate was issued in favour of the petitioner bearing pay verification certificate no. 17012208002141.

8. The learned counsel for the State submits that the pay verification certificate of the petitioner has been issued, as per the entitlement slip, which has been sent by the statutory Pay Fixation Committee of the University and there is no infirmity in the same. She further submits that the pay fixation of the petitioner has been done in accordance with the directions passed by this Hon'ble Court in C.W.J.C. No. 7636 of 2014 and in terms of the fresh fixation done by the University, in compliance of the letter issued by the Pay Verification Cell of the State Government.

9. The learned counsel for the State further submits that the action of the State Government and its authorities under the pay verification cell is in consonance with the order dated 13.11.2024 passed in C.W.J.C. No. 16104 of 2024 (**Suray Deo**



Paswan Vs. The State of Bihar and Ors.), whereby the Hon'ble Single Judge was pleased to direct the authorities of the State Government to take fresh decision in the matter in view of the order passed by this Hon'ble Court in C.W.J.C. No. 7636 of 2014.

10. The learned counsel appearing on behalf of the respondent-University submits that the pay fixation of the petitioner was done by the Statutory Pay Fixation Committee of the University and all the payments were being made to the petitioner in terms of the said pay fixation. Subsequently, the documents related to verification of the pay was sent to the State Government by the University and the Pay Verification Cell of the State Government raised some objections with regard to fixation of the pay of the petitioner on higher side. In terms of the said objections raised by the State Government, the University verified the entitlement of the petitioner and calculated the same and sent a fresh pay slip to the State Government, whereby the pay-scale of the petitioner has been reduced. In terms of the pay verification certificate issued by the State Government, the petitioner was found to have been paid in excess amount to the tune of Rs. 22,08,744/-, therefore the same has been adjusted.



11. The learned counsel for the petitioner in reply refers to Annexure-14 to the writ petition i.e. order dated 24.03.2009 passed in C.W.J.C. No. 65 of 2001 (**The Patna University Employees Association & Ors Vs. The State of Bihar & Ors**), whereby, the learned Single Judge while taking note of the counter affidavit filed by Deputy Secretary, Higher Education in Paragraph no. 4 of the said writ petition, has recorded as under, which is quoted hereinbelow:

“4. That it is further stated and submitted with regard to the aforesaid direction of the Hon'ble Court it is humbly submitted that the power of pay fixation to the employees of the Universities lies with the pay fixation committee and department is not concerned in this matter. The department does not accord approval or pass any order with regard to the recommendation made by the pay fixation committee, which is the competent authority to fix the pay of the employees of the University in accordance with the provisions of law statutes and Act.”

Reading the pleadings therein and its understanding by a common ordinary prudent person, in simple English language, conveys in clear terms that the recommendations of the statutory pay fixation committee is the jurisdiction of the



committee and not of the official State respondents. The question of their according approval to the same does not arise. Though they place reliance on an order dated 19.4.2006 at Annexure 'A' to support the same, learned counsel for the state finds it difficult to explain that if that be the position and no approval was required why was it not communicated to the University and if required intervention of the High court in exercise of article 226 of the constitution to propel the official respondents to discharge what was otherwise a routine administrative matter to be done within the portals of the powers Secretariat itself.

The statement in Para 4 is conclusive and clinches the Issue.”

12. The learned single judge on the basis of said paragraph proceeded to direct that in view of the statement made in paragraph no. 4 of the counter affidavit, the recommendation of the Statutory Pay Fixation Committee is now required to be implemented in consonance with law.

13. The learned counsel for the petitioner submits that in terms of the directions issued by the a learned Single judge of this Court vide order dated 15.01.2015 passed in C.W.J.C. No. 7636 of 2014 (**Kedar Nath Pandey & Ors. Vs.**



The State of Bihar and Ors.), wherein the Hon'ble Single Judge in paragraph no. 17 has held as follows:-

“17. Yet another serious infirmity found by the Court is that the decision contained in Annexure-8 series has been passed in gross violation of the principles of natural justice because the decision so taken by the Pay Verification Cell has serious civil consequences for these petitioners since they are going to not only loose out on the salary they have so earned but even the orders of promotion etc. which they have acquired over a period of time on the basis of the date of their initial absorption on their respective post and position gets altered.

In view of the above, Annexure-8 series are quashed Writ applications is allowed with liberty to the concerned respondents to act in accordance with law and the statute.”

14. The learned counsel for the petitioner further submits that a Hon'ble Single Judge of this Court in a Judgment dated 13.11.2004 passed in C.W.J.C. No. 16104 of 2024 (**Suray Deo Paswan vs. The State of Bihar & Ors**), after considering the order dated 15.01.2015 passed in C.W.J.C. No. 7636 of 2014, proceeded to set aside the pay verification certificate issued by the State of Bihar and remitted the matter back to the



State authorities to adhere to the directions contained in C.W.J.C. No. 7636 of 2014 i.e. the State authorities should raise objection to the pay fixation done by the Statutory Pay Fixation Committee of the University and in turn the University authorities are obliged to issue notice to the employee concerned and after receiving his response, it is the Statutory Pay Fixation Committee of the University who has to make fixation. In the present case, no such exercise has been undertaken before reducing the pay-scale of the petitioner and the petitioner has been found entitled for recovery of an amount to the tune of Rs. 22,08,744/-.

15. Having heard the learned counsel for the parties and after going through the records, it appears that the petitioner superannuated on 30.06.2010 and admittedly by the pay fixation, whereby his pay-scale has been reduced, was done after almost 12 years of his retirement and that too without issuing any notice to the petitioner. Further, after his retirement in 2010, the master and servant relationship came to an end and the University was not justified in reducing the pay-scale of the petitioner, only on the basis of the directions issued by the State Government, without issuing any notice to the petitioner or without giving him any opportunity to rebut the objections made



by the Pay Verification Cell of the State Government.

16. A learned Coordinate Bench of this Hon'ble Court vide judgment dated 03.12.2018 passed in C.W.J.C. No. 16458 of 2015 (**Rajendra Patel and Anr, Vs. State of Bihar & Ors.**) has observed as under:-

“From the materials available on record and the stand taken by the petitioners and the respondent University it is evident that the University has granted pay scale in terms of the statute and after superannuation of the petitioners on 31.10.2011 and 30.06.2012, respectively, the Auditor of the State Government raised objection as to pay fixation of the petitioners. This Court has held out in numerous occasion that the State Auditor has no jurisdiction in the matter of pay fixation of the employees of the University as there exists Statutory Pay Fixation Committee under the University statute for pay fixation and the action taken at the instance of the State Auditor in the instant case appears to be totally without jurisdiction. The decision taken by the Director, Higher Education after superannuation of the petitioners cannot sustain as the relationship of master and servant came to an end and further the



Auditor of the State Government has no jurisdiction in the matter of pay fixation of the employees of the University.”

17. Further, even this Court vide order dated 30.04.2026 passed in C.W.J.C. No. 18201 of 2022 (**Dinesh Chandra Mishra Vs. The State of Bihar and Ors**), after referring to various judicial pronouncement, including the case of the **Kedar Nath Pandey** (*supra*) and the decision of the Hon’ble Supreme Court of India reported in 2015 (1) PLJR 261 (**State of Punjab and Ors. Vs. Rafiq Masih (White Washer)**), the decision of the Hon’ble Supreme Court of India in Civil Appeal no. 7115 of 2010 (**Thomas Daniel vs. State of Kerala and Ors.**) and the order dated 03.12.2018 passed in C.W.J.C. No. 16458 of 2015 (**Rajendra Patel and another vs. The State of Bihar and Ors.**), proceeded to allow the writ petition and directed that the order of the recovery passed by the University was illegal and without jurisdiction.

18. Considering the above, this Court is of the considered opinion that the pay verification certificate issued by the Pay Verification Cell of the State Government vide receipt no. 17012208002141 deserves to be set aside and is accordingly set aside.

19. The petitioner would be entitled for the salary



which he was getting prior to his date of retirement, on the basis of the pay fixation, which was done by the University, which has been annexed as Annexure -7 to the writ petition. The petitioner would further be entitled for refund of Rs. 22,08,744/-, if the same has already been adjusted from the post retirement benefits of the petitioner, within a period of three months from the date of receipt/production of a copy of the order.

20. The present writ petition is allowed in the aforementioned terms.

21. Pending applications, if any, shall also stand disposed of.

(Ritesh Kumar, J)

krishnakant/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.05.2026
Transmission Date	NA

