

Haldhar Prasad Gupta Vs Deepak Kumar & Ors

Court: Supreme Court Of India

Date of Decision: Jan. 8, 2025

Hon'ble Judges: J. K. Maheshwari, J; Rajesh Bindal, J

Bench: Division Bench

Advocate: Neeraj Shekhar

Final Decision: Disposed Of

Judgement

J. K. Maheshwari, J

1. The petitioner has filed the present miscellaneous application seeking directions against contemnors to release arrears of salary, pension and other

benefits as directed vide order dated 27.02.2019 passed in Contempt Petition (C) No. 110 of 2019 filed in Civil Appeal No. 2703 of 2017 and batch

titled as *Āçâ,~Ā*“Krishna Nand Yadav & others Vs. Magadh University & others*Āçâ,~Ā*“.

2. Briefly put, the petitioner was appointed on the post of Lab In-charge in Parvati Science College under B.N. Mandal University on 27.09.1978 and

confirmed on 22.02.1979. The claim of petitioner regarding absorption was allowed by Mr. Justice S.B. Sinha (Retd.) One Man Commission

(hereinafter referred to as *Āçâ,~Ā*“J. Sinha Commission*Āçâ,~Ā*“). The said order was confirmed by this Court vide order dated 31.08.2017 passed in Krishna

Nand Yadav (supra).

3. For alleged non-compliance, the petitioner filed the Contempt Petition (C) No. 110 of 2019. On 27.02.2019, the Court observed that absorption has

been ordered and the payment of the admitted claim has also been made to the petitioner, if there are any remaining arrears, it be paid after

verification within four weeks. In this view, accepting unconditional apology, the Contempt Petition was disposed of.

4. Even after service, no counter has been filed in the present application.

5. Having considered the submissions, indisputably, after order of J. Sinha Commission, the petitioner*Āçâ,~Ā*“s absorption was notified on 18.09.2018. He

has already attained the age of superannuation on 30.11.2016. In view of the orders dated 11.07.2019 and 07.08.2019 of this Court in Contempt

Petition (C) No. 1188 of 2018 titled as *Āçâ,~Ā*“Baidya Nath Choudhary Vs. Dr. Sree Surendra Kumar Singh*Āçâ,~Ā*“ his pension has been put on hold. Thus, the

issue of payment of arrears of salary verifying the absence period and actual working days after an enquiry, and the stoppage of pension are the

issues, which require adjudication.

6. In view of the factual scenario of the matter and the tenor of the orders passed in subsequent proceedings in Baidya Nath Choudhary (supra), we

find that the issue regarding actual working of the petitioner, payment of salary and arrears thereof require adjudication after fact-finding enquiry,

which we are not inclined to hold in this application. So far as stoppage of pension is concerned, we make it clear that in the orders dated 11.07.2019,

07.08.2019 and 12.02.2021, the issue regarding payment of pension was not an issue. These orders relate to the fact that the absorbed employees

have received the salaries for the period in which they have not actually worked. Therefore, the Court directed for no further payment even for

pension. It is not reported that affording opportunity enquiry has been completed, however, we do not deem it appropriate to keep these matters

pending.

7. It is seen that in the case of the petitioner, the order of absorption have been passed by the concerned university after the order of J. Sinha

Commission, hence, it would be appropriate to direct the authorities to adjudicate all the said issues through Registrar/Vice Chancellor in view of the

judgment of State of Bihar & others vs Bihar Rajya M.S.E.S.K.K.M & others (2005) 9 SCC 129 and accordingly, we dispose of this application with

the following directions:

(i) The petitioner shall submit his claim along with relevant documents setting up his actual working in college in terms of the orders of absorption claiming salary,

and also for pension from the date of absorption upto February 28, 2025 before the Registrar/Vice Chancellor of the University.

(ii) On receiving the claim of salary, a discrete enquiry be held affording due opportunity to the employee, college concerned and the representative of the State if

required, and a reasoned order be passed regarding payment of salary and arrears, if any, within a period of three months thereafter.

(iii) The claim regarding pension of petitioner which has been withheld be decided counting the period of service, w.e.f. the date of absorption notionally

uninfluenced by the orders dated 11.07.2019, 07.08.2019 and 12.02.2021 passed in Contempt Petition (C) No. 1188 of 2018 in Baidya Nath Choudhary (supra).

(iv) After adjudicating the issue of pension and arrears the same be paid adjusting the amount already paid as expeditiously as possible not later than two months

from the date of such order.

(v) Upon adjudication, if it is found that any excess amount has been paid either in the head of salary or pension, it be quantified and the university/college/state as

the case may be, shall be at liberty to take recourse to recover the same following the procedure as prescribed.

(vi) We make it clear that if the employees have submitted the joint claim of arrears of salary and pension, in that event the issue of arrears of salary be governed by

direction No. (ii) and pension be governed by direction (iii).

(vii) In case, the parties feel dissatisfied by the orders of the Registrar/Vice Chancellor of the University, they shall be at liberty to take recourse as permissible before

the High Court.

8. In view of the foregoing, the present miscellaneous application stands disposed of. Pending interlocutory application(s), if any, also stands disposed

of.