

Dhirendra Kumar Vs Deepak Kumar And 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 present petitions have been filed alleging non-compliance of the order dated 31.08.2017 passed by this Court in Civil Appeal No. 2703 of 2017

and batch titled as "Krishna Nand Yadav & others Vs. Magadh University & others", whereby, this Court approved the order of Hon'ble

Mr. Justice S.B. Sinha (Retd.) One Man Commission (hereinafter referred to as J. Sinha Commission), directing the State to comply with the

order within a period of three months, subject to furnishing declaration of petitioner that he had been continuously working and attending the college

regularly since the date of appointment till date or in case of retirement, till the date of retirement and that he did not work anywhere else.

2. It is now the grievance of the petitioners that even after recommendation of J. Sinha Commission and orders passed in their favour, as accepted by

this Court, the benefit of arrears of salary and pension have not been granted by the authorities in view of the orders passed in subsequent

proceedings.

3. We have heard learned counsel for the parties and considered the submissions. In the facts, it is not in dispute that the petitioners in these contempt

petitions were not a party in Civil Appeal No. 2703 of 2017 and batch titled as Krishna Nand Yadav (supra). While the petitioners contend that during

absorption period they have actually worked, the said fact has been disputed by the respondents in their counter affidavit, inter-alia, submitting that the

arrears of salary of such period is not payable as they have not worked.

4. In this view of the matter and after perusal of the nature of the directions issued in Civil Appeal No. 2703 of 2017 and batch titled as Krishna Nand

Yadav (supra), no specific direction in personam to petitioners regarding payment of salary and arrears have been issued. Further, considering the

counter affidavit of the State and the tenor of the orders passed in subsequent proceedings in Contempt Petition (C) No. 1188 of 2018 titled as

“Baidya Nath Choudhary Vs. Dr. Sree Surendra Kumar Singh”, we find that the issue regarding actual working of the petitioners, payment of

salary and arrears thereof requires adjudication after fact-finding enquiry which we are not inclined to decide in these Contempt Petitions. 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.

5. It is seen that in the case of the petitioners, the orders of absorption have been passed by the respective universities after the orders 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 these petitions with

the following directions:

(i) The individual 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. 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.

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6. In view of the foregoing, the present contempt petitions stand disposed of. Pending interlocutory application(s), if any, stands disposed of.