

## Dr. Yugeshwar Yadav Vs Sanjay 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:** Anil Kumar Jha, Azmat Hayat Amanullah, Samir Ali Khan, Pranjal Sharma, Aishwarya Bhati, Sonia Mathur, Mukesh Kumar Maroria, Piyush Beriwal, Sughosh Subramanyam, Sabarish Subramanyam, Annirudh Sharma li, Shekhar Kumar, Pallavi Langar, Pragya Baghel, Aishwarya Bhati, Sonia Mathur, Piyush Beriwal, Sughosh Subramanyam, Sabarish Subramanyam, Annirudh Sharma (ii), Arvind Kumar Sharma, Neeraj Shekhar, Ashutosh Thakru, Manish Kumar Saran, Atul Jha, Dharmendra Kumar Sinha

**Final Decision:** Disposed Of

### Judgement

J. K. Maheshwari, J

1. The petitioner in the present contempt petition has approached inter-alia contending that by virtue of the interim orders dated 11.07.2019 and

07.08.2019 passed in Contempt Petition (C) No. 1188 of 2018 titled as "Baidya Nath Choudhary Vs. Dr. Sree Surendra Kumar Singh" in Civil

Appeal No. 2703 of 2017 and batch, titled as, "Krishna Nand, Yadav, & others Vs. Magadh University & others", his

arrears of salary and pension have not been finalized, which may amount to disobedience of the order of this Court.

2. Briefly put, the petitioner was appointed on the post of lecturer. The claim of the petitioner regarding absorption was allowed by Mr. Justice S.B.

Sinha (Retd.) One Man Commission (hereinafter referred to as "J. Sinha Commission"). The said order was confirmed by this Court vide order

dated 31.08.2017 in Krishna Nand Yadav (supra), subject to furnishing declaration by the petitioner regarding 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.

Vide notification dated 13.07.2018 of the Magadh University, he was absorbed.

3. In the present case, the State of Bihar filed counter affidavit stating that ascertainable arrears of salary of actual working days have been paid. It is

also said that pursuant to the orders dated 11.07.2019 and 07.08.2019 passed in Contempt Petition (C) No. 1188 of 2018 Baidya Nath Choudhary

(supra) two members enquiry committee found that petitioner has not worked for certain duration(s), hence, some amount is recoverable. Therefore,

for demand of arrears of salary, no case of deliberate or willful non-compliance can be made out.

4. Having considered the submissions, indisputably, after order of J. Sinha Commission, the petitioner's absorption was notified on 13.07.2018. As

contended, the ascertainable arrears of salary have been paid and the excess amount is recoverable. The petitioner has already attained the age of

superannuation. In view of the orders dated 11.07.2019 and 07.08.2019 of this Court in Contempt Petition (C) No. 1188 of 2018 Baidya Nath

Choudhary (supra), his pension was put on hold. Thus, the issue of payment of arrears of salary, verifying the absence period and actual working days

after an enquiry and release of pension are the issues, which require adjudication.

5. In view of the factual scenario of the matter, counter affidavit of the State and the tenor of the orders passed in subsequent proceedings in

Contempt Petition (C) No. 1188 of 2018 Baidya Nath Choudhary (supra), we find that the issues regarding actual working of the petitioner, payment

of salary, arrears and excess payment require adjudication after fact-finding enquiry, which we are not inclined to hold in this Contempt Petition. 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 there. 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 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.

6. As per above discussions, in our view, 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 petition 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. 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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7. In view of the foregoing, the present contempt petition stands disposed of. Pending interlocutory application(s), if any, stands disposed of.