

Sri Munshi Lal Mahto And Ors Vs Sri Sudhir Tripathy 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: Manjula Gupta, Prem Sunder Jha, Pallavi Langar

Final Decision: Disposed Of

Judgement

J. K. Maheshwari, J

1. The petitioners in the present contempt petition are aggrieved by the alleged non-compliance of the order dated 31.08.2017 passed in Civil Appeal

No. 2703 of 2017 and batch titled as “Krishna Nand Yadav & others Vs. Magadh University & others”.

2. During hearing, it has been informed that except petitioner No. 4, rest of the petitioners are receiving their legible claims since their respective date

of absorption, hence they do not wish to press this contempt petition. Accordingly, the contempt petition in respect of petitioner nos. 1 to 3 and 5

stands dismissed.

3. So far as petitioner No. 4 is concerned, briefly put, he was appointed on the post of Typist in P.P.K. College, Bundu (Ranchi) on 09.09.1985. The

claim of the petitioner regarding absorption was allowed by Mr. Justice S.B. Sinha (Retd.) One Man Commission (hereinafter referred to as “S.B. Sinha Commission”).

Sinha Commission vide order dated 29.10.2015, corrected by order dated 04.12.2015. 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 a notification dated 06.08.2018 of the Ranchi University, he was absorbed w.e.f. 01.07.2015.

4. The petitioner submits that after the absorption order of the University he has not received his arrears of salary. The contemnor “Chief

Secretary, State of Jharkhand in his counter affidavit has stated that after receipt of the notification dated 06.08.2018 from the University and on

scrutiny of his certificates, it was found that he was minor on the date of his appointment, i.e., 09.09.1985, as well as on cut-off date. Therefore, his

pay fixation was rejected.

5. The State of Jharkhand in its reply to the written submissions of the petitioner No. 4 has stated that the date of birth of the petitioner No. 4 is

05.08.1968 and this crucial fact was concealed by him. Since, he was a minor on the date of his appointment as well as on the cutoff date he was

ineligible for such appointment and accordingly, his pay was not fixed. Further, since his appointment is void ab-initio, a detailed enquiry of the original

records in regard to continuity of his service has not been done in furtherance of order dated 07.08.2019 of this Court passed in Contempt Petition (C)

No. 1188 of 2018 titled as "Baidya Nath Choudhary Vs. Dr. Sree Surendra Kumar Singh." Hence, there is no case of willful non-compliance.

6. We have perused the documents placed and noted that the order of rejection of pay fixation is not on record. It is further noted that after the

absorption notification issued by the University; nothing has been brought for de-notifying petitioner no. 4's absorption.

7. Having considered the submissions, the factual scenario of the matter, counter affidavit of the contemnors 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 date of birth,

pay fixation, payment of salary and arrears require adjudication, which we are not inclined to hold in this Contempt Petition.

8. 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 No. 4 shall submit his claim regarding date of birth, pay fixation and arrears of salary along with relevant documents before the

Registrar/Vice Chancellor of the University by February 28, 2025. On receiving such claim, it be adjudicated affording due opportunity to the

employee, college concerned, representative of the State and a reasoned order be passed within a period of three months.

(ii) 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.

9. In view of the foregoing, the present contempt petition stands disposed of. Pending interlocutory application(s), if any, stands disposed of.