



2025 INSC 74

IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION

CONTEMPT PETITION (C) NO. 1188 OF 2018

IN

CIVIL APPEAL NO. 2703 OF 2017

BAIDYA NATH CHOUDHARY

PETITIONER

VERSUS

DR. SREE SURENDRA KUMAR SINGH

RESPONDENT

O R D E R

1. The petitioner in the present Contempt Petition is 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. Briefly put, the petitioner was appointed as a Lecturer in R.L. College Madhav Nagar. 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’**) vide order dated 21.11.2014. 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.

3. Upon issuance of notice, the University vide order dated 09.12.2018 absorbed the petitioner with effect from 21.04.1995 and not from the date of his confirmation by the University on the sanctioned post. University on 26.07.2019 modified the previous order treating the petitioner absorbed with effect from 15.12.1993. Later, *vide* order dated 01.10.2019, by a partial modification the date of absorption was accepted w.e.f. 12.09.1976, i.e., the date on which petitioner was confirmed on the sanctioned post.

4. In the present case, the State of Bihar filed counter-affidavit stating that his arrears of salary are not payable as he has not worked from the date of absorption, hence, not entitled for payment.

5. Having considered the submissions, we find that undisputedly, after order of J. Sinha Commission, the petitioner's absorption was notified as mentioned above. He has already attained the age of superannuation on 31.10.2018. Further, in view of the orders dated 11.07.2019 and 07.08.2019 of this Court in the present Contempt Petition, his pension was put on hold. Thus, the issue of payment of

arrears of salary verifying the absence period and actual working days and the stoppage of pension are the issues, which require adjudication.

6. 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 the present Contempt Petition, we find that the issue regarding actual working of the petitioner, payment of salary and arrears thereof requires 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 had 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 after affording opportunity enquiry has been completed, however, we do not deem it appropriate to keep these matters pending.

7. 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 this Contempt Petition. However, if there is prolonged

period of absence, the same shall be dealt with by the competent authority in accordance with the relevant rules.

- (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 under 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 permissible.
- (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 contempt petition stands
disposed of. Pending interlocutory application(s), if any, stands
disposed of.

....., J.
[J.K. MAHESHWARI]

....., J.
[RAJESH BINDAL]

New Delhi;
January 08, 2025.