

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.4666 of 2018**

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Laxmi Devi W/o Late Chandra Bhushan Singh, Resident of Village-  
Manjhaul, P.S.- Manjhaul, District- Begusarai.

... .. Petitioner

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Vice Chancellor, L.N. Mithila University, Darbhanga.
4. The Registrar, L.N. Mithila University, Darbhanga.
5. The Finance Officer, L.N. Mithila University, Darbhanga.
6. The Principal R.C.S. College Manjhaul, Begusarai.

... .. Respondents

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**Appearance :**

For the Petitioner/s	:	Mr.Shashi Bhushan Singh
	:	Mr.Gyan Abhinav
For the State	:	Mr.Shashi Shekhar Tiwari
	:	Mr.Ajay Behari Sinha
For the Accountant General:	:	Mr.Arun Kumar Prasad

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

ORAL ORDER

22 06-07-2021                      This application has been taken up for hearing online because of COVID-19 pandemic restrictions.

The petitioner is widow of one Chandra Bhushan Singh who died in harness while working as an Assistant in R.C.S. College, Manjhaul, Begusarai on 24.10.2016. She has invoked the writ jurisdiction of this Court seeking direction for sanction of payment of cash equivalent to unutilized earned leave of 300 days as per the leave account, amount of gratuity at enhanced rate and amount of group insurance with interest at the rate of 12.5% per annum.



From the supplementary counter affidavit filed on behalf of the University dated 27.07.2018, it transpired that the amount of leave encashment amounting to Rs. 6,39,580/-, gratuity amounting to Rs.10,00,000/- had been paid to the petitioner. In respect of group insurance with interest, it was stated that the same shall also be paid to the petitioner. The petitioner has also raised issues regarding payment of arrears of salary with the benefit of Assured Career Progression and Modified Assured Career Progression scheme. In this regard, a statement was made in the counter of the University that the payment shall be made after receipt of approval of pay point from Pay Verification Cell of the Education Department, Government of Bihar and that the papers had already been forwarded to the said Cell.

Subsequently, a supplementary counter affidavit was filed on behalf of the State of Bihar on 09.08.2018 stating therein that during verification of fixation of pay of the deceased employee certain discrepancies had been noticed, particularly regarding his qualification at the time of his appointment. It transpires from Annexure-A to the said counter affidavit that it was pointed out by the Pay Verification Cell of the Education Department that the petitioner did not hold educational



qualification of an Assistant as on the date of his appointment. The said objection was raised treating graduation as the minimum qualification for the said post. It is noted at this stage that it is not in dispute that the deceased employee possessed qualification of higher secondary on the date of his appointment i.e. 20.04.1980, as an Assistant. This is to be noticed that fixation of pay of the deceased employee, as was done by the L.N. Mithila University (hereinafter referred to as 'the University'), was accordingly revised by the pay verification cell.

This matter was heard on several dates. When the matter was taken up on 25.06.2021, following order was passed:-

*“This matter has been taken up for hearing online because of COVID-19 pandemic restrictions.*

*Pay Verification Cell constituted by the Education Department, Government of Bihar has held the petitioner's late husband ineligible to be appointed on the post of Assistant on the ground that he did not have the qualification of graduation on the date of his appointment in 1980.*

*It is specific case of the*



*petitioner that graduation was not the minimum qualification for appointment as an Assistant in 1980 and that he possessed the minimum qualification of Intermediate/Higher Secondary prescribed for the said post, as on the date of his appointment.*

*Despite repeated adjournments, the respondents have not come out with a specific stand as to what was the minimum qualification prescribed for the post of Assistant as on the date of appointment of the petitioner's late husband.*

*This Court, in such circumstance, is constrained to direct appearance of the Principal Secretary, Education Department, Government of Bihar and the Vice Chancellor of the L.N. Mithila University on the next date. They are also directed to swear separate affidavits stating specifically as to what was the minimum qualification prescribed for the post of Assistant, as on the date of the appointment of the petitioner's late husband.*

*Let link for online hearing of the present case be*



*communicated to the Principal Secretary, Education Department, Government of Bihar and the Vice Chancellor of the L.N. Mithila University. List this case on 02.07.2021.”*

In compliance of the said order, the Additional Chief Secretary, Education Department, Government of Bihar and the Vice Chancellor of the University joined online hearing of the Court proceeding. A supplementary counter affidavit has been filed on behalf of the State of Bihar.

In view of the averments made in the supplementary counter affidavit filed on behalf of the State of Bihar sworn by the Additional Chief Secretary, Education Department, Government of Bihar, I need not go into all factual details in relation to the petitioner's claim. In the said counter affidavit, it has been stated that in the light of the petitioner's plea in I.A. No. 9491 of 2018 relating to the fact that the petitioner's husband had the qualification of higher secondary which was equivalent to intermediate and was requisite qualification for the post of Assistant at the time of his appointment, the Pay Verification Cell has again verified the matter and has accordingly modified the entitlement slip and accordingly pay scale admissible to Assistant has been granted



to the husband of the petitioner, which has been communicated to the University through E-mail.

It has been agreed on behalf of the State of Bihar that in the year 1980, the requisite qualification for appointment of Assistant was intermediate, which came to be subsequently enhanced to graduation on 02.01.1985. Similar stand has been taken in the counter affidavit sworn by the Vice Chancellor of the University filed on 01.07.2021.

It has been clearly stated in paragraph 6 of the said affidavit that prior to 02.01.1985, intermediate was the requisite qualification for Assistant of the Secretariat of Bihar and further referring to resolution dated 23.06.2014 of the State Government of Bihar issued in compliance of the Supreme Court's order in case of *State of Bihar and Another v. Sunny Prakash and Others* reported in (2013) 3 SCC 559, it is not being disputed that the petitioner's husband was entitled to same pay scale as available for the post of Assistant working in the Secretariat of the Government of Bihar.

In view of the aforesaid stand taken on behalf of the respondents, in Court's opinion, the grievance of the petitioner stands substantially redressed. The respondents are directed to ensure that the petitioner is paid her all legal entitlements upon



fixation of pay scale of her husband, grant of ACP/MACP and other consequential benefits in terms of fixation of pay and other post retiral dues, if any.

The Court directs the respondents to ensure that all admissible dues in terms of the present order is paid to the petitioner within three months from the date of receipt/production of a copy of this order.

It will, however, be open to the petitioner to approach appropriate authority by making representation, if according to her, she is entitled to receive more amount against any head than paid in terms of the present order.

This application stands disposed of with the aforesaid observation and direction.

This disposes of the Interlocutory Applications also.

**(Chakradhari Sharan Singh, J)**

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