

Gopal Sharan Singh vs Deepak Kumar on 8 January, 2025

Author: J.K. Maheshwari

Bench: Rajesh Bindal, J.K. Maheshwari

2025 INSC 59

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IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION

CONTEMPT PETITION (C) NO. 372 OF 2019

IN

CIVIL APPEAL NO. 2703 OF 2017

GOPAL SHARAN SINGH

PETITIONER(S)

VERSUS

DEEPAK KUMAR AND ORS.

RESPONDENT(S)

WITH

CONTEMPT PETITION (C) NO. 373 OF 2019

IN

CIVIL APPEAL NO. 2703 OF 2017

MAHENDRA KUMAR SINGH

PETITIONER(S)

VERSUS

DEEPAK KUMAR AND ORS.

RESPONDENT(S)

WITH

CONTEMPT PETITION (C) NO. 376 OF 2019

IN

CIVIL APPEAL NO. 2703 OF 2017

SHYAM SHARAN SHAH AND ANR.
Signature Not Verified

PETITIONER(S)

Digitally signed by
NIDHI AHUJA
Date: 2025.01.10

VERSUS

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Reason:

DEEPAK KUMAR AND ORS.

RESPONDENT (S)

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ORDER

1. The petitioners in the present contempt petitions 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. Briefly put the petitioners were appointed on various posts in different colleges. The claims of the petitioners regarding absorption were allowed by Mr. Justice S.B. Sinha (Retd.) One Man Commission (hereinafter referred to as ‘J. Sinha Commission’) vide various orders on different dates. The said orders were confirmed by this Court vide order dated 31.08.2017 in Krishna Nand Yadav (supra), subject to furnishing declaration by the respective 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. The petitioners submit that while they have been absorbed by the university vide different orders on various dates, their arrears of salary and pension, if any, have not been paid by the contemnors, therefore, the present petitions have been filed.

4. In the present case, the State of Bihar filed counter affidavit stating that ascertainable arrears of salary of actual working days have been paid and 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 titled as “Baidya Nath Choudhary Vs. Dr. Sree Surendra Kumar Singh” the two member-enquiry committee observed that based on the attendance records for one of the petitioners he was found to have not worked for certain duration. For other petitioners, proper records were not available, hence their actual working period could not be ascertained. Therefore, no case of wilful non-compliance can be made out.

5. Having considered the submissions, indisputably, after order of J. Sinha Commission, the absorption of the petitioners was notified by Magadh University on different dates and vide different orders. The details are as under: -

Name	Date of notification	Absorption w.e.f. the following date
Mr. Gopal Sharan Singh	03.12.2018	01.03.2005
Mr. Mahendra Kumar Singh	03.12.2018	01.03.2015
Mr. Shyam Sharan Shah	19.12.2018	01.08.2007
Mr. Bishwa Nath Singh	19.12.2018	01.03.2014

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), their arrears were put on hold. Thus, the issue of

payment of arrears of salary after verifying the absence period and actual working days and pension, if any, 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 Contempt Petition (C) No. 1188 of 2018 Baidya Nath Choudhary (supra), we find that the issues regarding actual working of the individual petitioner, payment of salary and arrears thereof require adjudication after a fact-finding enquiry, which we are not inclined to decide in these Contempt Petitions. It is not reported that after affording an 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 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 pension, if any, 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, if any, 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 “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 of pension 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 petitions stand disposed of. Pending interlocutory application(s), if any, stands disposed of.

....., J.

[J.K. MAHESHWARI], J.

[RAJESH BINDAL] New Delhi;

January 08, 2025.