

Premshila Kuer vs Dr. Amrendra Narayan Yadav on 8 January, 2025

Author: J.K. Maheshwari

Bench: Rajesh Bindal, J.K. Maheshwari

2025 INSC 57

IN THE SUPREME COURT OF INDIA

INHERENT JURISDICTION

CONTEMPT PETITION (C) NOS. 103-104 OF 2019

IN

CIVIL APPEAL NOS. 2788-2789 OF 2017

PREMSHILA KUER

PETITIONER

VERSUS

DR. AMRENDRA NARAYAN YADAV & ANR.

RESPONDENT (S)

ORDER

1. The petitioner in the present Contempt Petitions 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 deceased employee-Ayodhya Prasad (husband of petitioner herein) was appointed on the post of Lab In-charge in R.L.S.Y College. The claim of the employee regarding absorption was allowed by Mr. Justice S.B. Sinha (Retd.) One Man Commission (hereinafter referred to as ‘J. Sinha Commission’) vide order dated 13.05.2016. The said order was approved by this Court vide order dated 31.08.2017 in Krishna Nand Yadav (supra), subject to furnishing declaration by the employee 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 B.R. Ambedkar University, Bihar, vide order dated 18.09.2018 absorbed the deceased employee with effect from 13.05.2016. Since Ayodhya Prasad died on 09.02.2012 and date of absorption cannot be after the death of the employee, the University vide corrigendum dated 19.09.2018 changed the said date of absorption as 12.02.1990. By the said corrigendum, it was clarified that the period from the date of absorption till death would be counted as period spent on duty notionally for the purpose of retiral and other consequential benefits.

4. Later, the University attempted to change the date of absorption as 09.02.2012, the date of death of the employee, as against 12.02.1990. It was not accepted by the State Government, taking

categorical stand in para 11 of the compliance affidavit filed in pursuance of the order of this Court dated 02.04.2019.

5. In view of the order of this Court, we are inclined to repel the arguments of the petitioner that the absorption of the deceased employee may be treated from the date of declaring the college as constituent college. In view of foregoing, in our view, deceased Ayodhya Prasad be treated as absorbed with effect from 12.02.1990 and counting his service notionally, the petitioner is entitled for the salary of the deceased employee on which he had already worked and family pension and all consequential retiral benefits.

6. In view of the factual scenario of the matter, counter affidavit of the State and the tenor of orders passed in subsequent proceedings in Contempt Petition (C) No. 1188 of 2018 “Baidya Nath Choudhary Vs. Dr. Sree Surendra Kumar Singh”, we find that the issue regarding actual working of the deceased-employee, payment of salary and arrears thereof requires adjudication after fact-finding enquiry which we are not inclined to hold in these contempt petitions. So far as stoppage of family 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 family pension was not an issue. 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 for no further payment even for family pension. It is not reported that 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 these petitions with the following directions:

(i) The petitioner shall submit her claim along with relevant documents setting up actual working of the deceased employee in college in terms of the orders of absorption claiming salary, and also for family 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 petitioner, 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 family 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 “Baidya Nath Choudhary (supra)”.

(iv) After adjudicating the issue of family 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 family 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 family pension, in that event the issue of arrears of salary be governed by direction No. (ii) and family 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 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.