

Prashant Bandyopadhyay vs Sudhir Tripathi on 8 January, 2025

Author: J.K. Maheshwari

Bench: Rajesh Bindal, J. K. Maheshwari

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2025 INSC 63

IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION

CONTEMPT PETITION (C) NO. 735 OF 2019

IN

CIVIL APPEAL NO. 2703 OF 2017

PRASHANT BANDYOPADHYAY & ANR.

PETITIONER(S)

VERSUS

SUDHIR TRIPATHI & ORS.

RESPONDENT(S)

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. The present Contempt Petition is being entertained only on behalf of petitioner No. 1 – Prashant Bandyopadhyay. So far as petitioner No. 2 – Hiralal Ram is concerned, who is reported to have expired, we do not find any order that has been passed in his favour by Mr. Justice S.B. Sinha (Retd.) One Man Commission (hereinafter referred to as “J. Sinha Commission”), against which any contempt can be made out. Therefore, we are not inclined to entertain the claim of petitioner No. 2. The contempt petition, so far as petitioner No. 2 is concerned, is dismissed and the application for substitution of his legal heirs is hereby rejected.

3. Insofar as petitioner no. 1 – Prasant Bandyopadhyay is concerned, he was appointed as a Routine Clerk in ABM College, Jamshedpur. His claim regarding payment of salary was allowed by Mr. Justice S.B. Sinha (Retd.) One Man Commission (hereinafter referred to as ‘J. Sinha Commission’) vide order dated 23.01.2016. 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 notification dated 15.09.2018 of the Kolhan University, he was absorbed w.e.f. 22.10.1986.

4. The petitioner No. 1 submits that he has received his arrears of salary only from the date of bifurcation of State of Jharkhand from State of Bihar, i.e., 15.11.2000 till his superannuation, i.e., 31.08.2016. However, his arrears from the date of absorption till bifurcation are still pending, though recommended by the University vide chart dated 13.09.2018 which was submitted to State of Jharkhand on 14.09.2018.

5. The State of Jharkhand in its counter affidavit has stated that on enquiry pursuant to 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” two members enquiry committee found discrepancies in attendance register and was not in a position to verify the absence period and the actual working period, therefore, for demand of arrears of salary, no case of deliberate or willful non-compliance can be made out.

6. We have perused the documents and it is reported that petitioner No. 1 was allocated to the State of Jharkhand and accordingly, the State released his arrears of salary from the date of creation of State of Jharkhand. In the present contempt petition, no one has been joined as contemnor from State of Bihar, therefore, adjudication of the claim of arrears of salary from the date of absorption till bifurcation cannot be gone into in the present contempt petition.

7. On perusal of the documents produced, the claim regarding his working in the State of Bihar is not ascertainable. So far as his working in the State of Jharkhand, salary has already been decided and paid. In case any surviving claim is there, he is at liberty to put forth such claim along with the issue of pension. We make it clear that in the orders dated 11.07.2019, 07.08.2019 and 12.02.2021, passed in Contempt Petition (C) No. 1188 of 2018 titled as “Baidya Nath Choudhary (supra)” the issue regarding payment of pension was not there. 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 of pension. It is not reported that affording opportunity enquiry has been completed, however, we do not deem it appropriate to keep these matters pending.

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. 1 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 No. 1 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 in 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 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.

9. 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.