

Shyam Narayan Singh vs Sanjay Kumar on 8 January, 2025

Author: J.K. Maheshwari

Bench: Rajesh Bindal, J.K. Maheshwari

2025 INSC 66

IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION
CONTEMPT PETITION (C) NO. 449 OF 2021
IN
CONTEMPT PETITION (C) NO. 1188 OF 2018
IN
CIVIL APPEAL NO. 2703 OF 2017

DR. SHYAM NARAYAN SINGH AND ORS.

PETITIONER(S)

VERSUS

SANJAY KUMAR AND ORS.

RESPONDENT(S)

ORDER

1. The petitioners in the present contempt petition have approached this Court inter-alia contending that by virtue of the interim 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” in Civil Appeal No. 2703 of 2017 and batch titled as “Krishna Nand Yadav & others Vs. Magadh University & others”, arrears of salary and pension have not been finalized, which may amount to disobedience of the order of this Court.

2. Briefly put, the petitioners were appointed on various posts in different colleges under Magadh University. Their claims regarding absorption were allowed by Mr. Justice S.B. Sinha (Retd.) One Man Commission (hereinafter referred to as ‘J. Sinha Commission’) passing 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 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. However, the compliance of the said order is sought in true sense and spirit.

3. The petitioner Nos. 1 to 4 and 6 to 10 submit that arrears of salary which were earlier stopped by the Magadh University have been received by them. However, because of the orders dated 11.07.2019 and 07.08.2019, their pension and other benefits have not been paid. The petitioner No. 5 alleges that even after his absorption arrears of salary from May, 2008 have not been paid.

4. In the present case, the State of Bihar filed counter affidavit stating that the petitioners have been paid their regular current salary, however, the other payments were kept in abeyance in the light of the orders dated 11.07.2019 and 07.08.2019 passed in Contempt Petition (C) No. 1188 of 2018 Baidya Nath Choudhary (supra). It is submitted that on the issue of their actual working from the date of absorption fact finding enquiry is necessary, however, it is not a case of deliberate or willful

non-compliance.

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, vide different orders. The details are as under: -

Name	Date of notification	Absorption w.e.f. the following date	Date of superannuation
P1 – Dr. Shyam Narayan Singh	13.07.2018	14.02.1983	30.11.2020
P2 - Dr. Krishna Kumar Navin	13.07.2018	14.02.1983	30.04.2015
P3 - Dr. Mundrika Prasad	18.08.2018	N/A	31.07.2009
P4 - Md. Gulam Samdani	13.07.2018	09.05.1988	30.09.2020
P5 - Dr. Shree Niwas Pandey	18.09.2018	N/A	In service
P6 - Sri Harihar Prasad Singh	13.07.2018	19.03.1986	30.11.2015
P7 - Sri Vidya Bhushan Prasad	18.08.2018	N/A	31.01.2018
P8 - Sri Brij Bihari Singh	18.09.2018	N/A	31.01.2021
P9 - Sri Rajendra Pd. Singh	13.07.2018	19.03.1986	31.01.2019
P10 - Brij Mohan Prasad	13.07.2018	19.03.1986	31.12.2015

6. As informed by the parties, except petitioner No. 5, all other petitioners have attained the age of superannuation. It is contended that the regular salary was paid as per order dated 14.01.2020, but in view of the orders dated 11.07.2019 and 07.08.2019 passed in Contempt Petition (C) No. 1188 of 2018 in Baidya Nath Choudhary (supra), pension and other dues are put on hold. Thus, the issue of payment of arrears of salary after verifying actual working period after an enquiry and the payment of pension are the issues which require adjudication.

7. 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 issue regarding actual working of the individual 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 have 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.

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 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 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 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 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.