

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.16648 of 2016**

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1. Dr. Jayshree wife of Shri Ratiwant Kumar Mallik, resident of 45, Regency Gardens Apartment, New Patliputra Colony, P.S.- Patliputra, District- Patna.
  2. Dr. Usha Yadav, wife of Shri Shailendra Kumar Yadav, resident of 4/60, Officers' Flat, Bailey Road, P.S.- Kotwali, District- Patna.
  3. Dr. Rita Khare, wife of Dr. Ravi Kumar Sinha, resident of 206, Uannati Griham Apartment, Road No.2, Gardanibagh, P.S.- Gardanibagh, District- Patna.
  4. Dr. Ranjeeta, wife of Dr. Sanjay Kumar, resident of B- 401, Officers' Hostel, Bailey Road, P.S.- Kotwali, District- Patna.

... ... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. Government Women's College, Gulzarbagh, Patna through its Principal
3. Government Women's College, Gardanibagh, Patna through its Principal
4. Magadh University, Bodh Gaya through its Registrar.
5. University Grants Commission, New Delhi through its Secretary.

... ... Respondent/s

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**Issue in consideration** : are the petitioner entitled for grant of promotion and consequential benefit subsequent upon grant of promotion to them for rank of Assistant Professor (Senior Scale) and Associate Professor in terms of the provision of the statutes regarding Career Advancement Scheme as are applicable in the cases of the teachers working in different Universities and Colleges governed by the regulations issued by the University Grants Commission.

**Are petitioners entitled for consideration of their cases for promotion under the Career Advancement Scheme as contained in Clause- 7 of the UGC package appended to the decision of the State Government dated 20.07.2001 in terms of Statutes for Career**

**Advancement Scheme implemented w.e.f. 27.07.1998 and grant of consequential benefit subsequent upon grant of promotion to them.**

**Held:** It Was decided by the State Government in the Higher Education Department to implement the UGC package not only with respect to the Colleges under different Universities but also with respect to the Teachers working in the Government Women's College, Gardanibagh / Gulzarbagh, Patna. It is held that the petitioners are also entitled for consideration of their cases for promotion under the Career Advancement Scheme as contained in Clause- 7 of the UGC package appended to the decision of the State Government dated 20.07.2001 in terms of Statutes for Career Advancement Scheme implemented w.e.f. 27.07.1998. As per the decisions of the State Government dated 20.07.2001 as well as 29.07.2010 it is clear that implementation of the UGC package was not only restricted to the Teachers working in the Colleges under different Universities but also admissible to the Teachers working in the Government Women's College at Gulzarbagh and Gardanibagh, Patna.

**Is the reliance upon the judgment of High Court passed in LPA No. 211 of 2013 applicable in the facts of this case as the claim of petitioner in LPA No. 211 of 2013 was regarding enhancement of age of superannuation of Teachers working under Government Women's College. Is the service conditions of the University Teachers governed by the Universities Act and the UGC Act while the service conditions of Government Women's Colleges are governed by the Bihar Service Code and Rules framed thereunder.**

**Held:** The case in LPA No. 211 of 2013 was regarding enhancement of age of superannuation of Teachers working under Government Women's College and In absence of any policy decision regarding enhancement of age of superannuation, the Appeal filed by the appellant in that case was dismissed but in the present case the petitioners are seeking the benefit under the decision of the State Government regarding grant of benefit of UGC package which was duly notified and made applicable to the Teachers working in the Government Women's College, Gardanibagh and Gulzarbagh, Patna. Clause- 2 of the resolution dated 29.07.2010 demonstrates that except the issue of age of superannuation all other issues

including revised pay scale, appointment and promotion were made applicable to the Teachers working in the Government Women's College, Gardanibagh / Gulzarbagh.

Subsequently, the State Government in the Human Resource Development Department came out with another resolution dated 29.07.2010 by which the benefit of UGC revised pay scale were implemented in relation to the Teachers working in different Colleges and Universities with effect from 01.01.2006 and the same benefit was also extended to the Teachers of the Government Women's College, Gardanibagh / Gulzarbagh, Patna. Save and except the matter of age of superannuation, all other issues including the matter of revised pay scale, appointment and promotion were implemented with effect from 01.01.2006. The petitioners were also extended the benefit of revision of their pay scale with effect from 01.01.2006 under the UGC pay scale and designation of the petitioners was also changed from "Lecturer" to "Assistant Professor".

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5. University Grants Commission, New Delhi through its Secretary.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s	:	Mr.Abhinav Srivastava, Advocate
For the Respondent/s	:	Ms. Namrata Singh, AC to GA12
For the M.U.	:	Mr. Md. Faiz Ahmad, Advocate
For the UGC	:	Mr. Prakash Chandra Agrawal, Advocate
		Mr. Hare Bhaskar Giles, Advocate

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**CAV JUDGMENT**

**Date : 19-09-2024**

1. Four petitioners, who were appointed as Lecturers in the Government Women’s College, Gulzarbagh & Gardanibagh, Patna at present re-designated as Assistant Professor have filed the instant writ application for a direction to the respondent authorities to consider their cases for grant of promotion in the rank of Assistant Professor (Senior Scale) and Associate



Professor in terms of the provision of the statutes regarding Career Advancement Scheme as are applicable in the cases of the teachers working in different Universities and Colleges governed by the regulations issued by the University Grants Commission (hereinafter referred to as the “UGC”). The petitioners have further prayed for grant of consequential benefit subsequent upon grant of promotion to them.

2. The petitioner nos. 1, 2 & 3 are working as Assistant Professor in the subjects of Geography, Hindi and Music respectively in the Government Women’s College, Gulzarbagh, Patna and the petitioner no. 4 is working as Assistant Professor in Chemistry at Government Women’s College, Gardanibagh, Patna. Both the colleges are affiliated to Magadh University and recognized by the UGC.

3. Pursuant to the advertisement dated 04.09.1996 published by the Bihar Public Service Commission (hereinafter referred to as the “BPSC”) applications were invited for fifteen posts of Lecturers in different subjects at the Government Women’s College, Gardanibagh & Gulzarbagh, Patna. The petitioners were appointed on the post of Lecturers as per the procedures prescribed for selection vide Memo No. 457 dated 17.03.1998.



4. By letter dated 19.11.1981 the State Government took a decision to declare the post of Principal and Lecturers working in the Government Women's College, Gulzarbagh & Gardanibagh, Patna as Ex- Cadre posts and UGC pay scale admissible to the teachers working in the Colleges and / or Universities within the State of Bihar was made applicable to the teachers working in the Government Women's Colleges under the administrative control of the State Government having affiliation from Magadh University. The Colleges in question are recognized by the UGC in terms of the provisions contained under Section 2(f) & 12(B) of the UGC Act, 1956 according to which the UGC provides financial assistance to eligible colleges which are included under Section 2(f) and declared fit to receive central assistance (UGC grant) under Section 12(B) of the UGC Act.

5. By notification dated 13.07.1993 issued by the State Government in the Department of Human Resource Development the persons working against the posts of Teachers in different subjects at the Government Women's College were granted first time bound promotion in the UGC pay scale upon completion of ten years of regular service in the College on the recommendation of the BPSC.



6. A letter dated 20.07.2001 was issued by the respondent authorities under the Higher Education Department, Government of Bihar, by which decision was taken to implement the UGC package (including the revised pay scale) and the same was duly notified. The copy of the notification was communicated to the Registrars of different Universities within the State of Bihar and the Principals of the Government Women's College, Gulzarbagh and Gardanibagh, Patna. By the said letter the State Government took a decision to implement the UGC package as contained in Appendix-I attached to the said letter which contains the provisions with regard to pay scales admissible to the Teachers working in different Universities and Colleges within the State of Bihar and also laid down the provisions in relation to the matters of recruitment and qualification for appointment of Teachers in the Colleges and Universities as well as the provisions regarding promotion in terms of Career Advancement Scheme as contained in Clause – 7.

7. The UGC package in Appendix – I was accepted by the State Government in its Department of Higher Education.

8. Subsequently, UGC issued regulations containing the provisions with regard to revision of pay scale of Teachers



working in the Colleges and Universities and vide resolution dated 29.07.2010 the respondent / State implemented the revised pay scale in relation to the Teachers working in different Colleges and Universities within the State of Bihar w.e.f. 01.01.2006. Similar benefit of UGC revised pay scale with effect from 01.01.2006 was also implemented in relation to the Teachers of the Government Women's College, Gardanibagh / Gulzarbagh, Patna where the petitioners are working.

9. Mr. Abhinav Srivastava, learned counsel appearing for the petitioners argued that vide letter dated 19.11.1981 the post of Lecturers in the Government Women's College at Gulzarbagh & Gardanibagh, Patna was sanctioned as Ex- Cadre post. The pay scale admissible to the Teachers working in the Colleges or Universities within the State of Bihar was made applicable to the Teachers working in the Government Women's Colleges as well. Accordingly, from time to time subsequent to the implementation of the UGC revised pay scale with respect to the Teachers working in Colleges under different Universities, the Teachers working at the Government Women's College were also extended the similar benefit of revision of their salary in the UGC revised pay scale. The time bound promotion in the UGC pay scale upon completion of ten years of regular service was





also granted to the teachers / lecturers working in Colleges on the recommendation of the BPSC.

**10.** Pursuant to letter dated 20.07.2001 issued by the Higher Education Department, the State Government took a decision to implement the UGC package including the revised pay scale, which was communicated to the Registrars of different Universities as well as the Principals of the Government Women's College, Gulzarbagh & Gardanibagh, Patna. By the said letter the State Government has taken a conscious decision to implement the UGC package as contained in Appendix-I to the said letter, which contained the provisions with respect to pay scale admissible to the Teachers and also lays down the provision regarding recruitment and qualification for appointment of Teachers as well as the provisions regarding promotion in terms of Career Advancement Scheme as contained in Clause – 7 to Appendix-I.

**11.** Since the State Government has taken a decision to implement the UGC package not only with respect to the Colleges under different Universities but also with respect to the Teachers working in the Government Women's College, Gulzarbagh and Gardanibagh, Patna, the petitioners are also entitled for being extended the same benefit in terms of the



provisions contained under the UGC package as enclosed with the aforesaid letter dated 20.07.2001. Accordingly, the benefit of UGC revised pay-scale of Rs. 8000-275-13500/- was given to the Lecturers in the Government Women's College including the petitioners with effect from 01.01.1996.

**12.** The respondent / State came out with another resolution dated 29.07.2010 by which the benefits of UGC revised pay scales were implemented with effect from 01.01.2006 for the Teachers working in different Colleges and Universities within the State of Bihar including for the teachers of the Government Women's College, Gardanibagh and Gulzarbagh, Patna.

**13.** From perusal of Clause- 2 of aforesaid resolution dated 29.07.2010 it would be evident that save and except the matter of age of superannuation, all other issues including the matter of revised pay scale, appointment and promotion would be implemented w.e.f. 01.01.2006. It has further been provided that necessary amendments would also be brought in the Universities Act and Statutes for the implementation of the said decision.

**14.** In terms of the resolution dated 29.07.2010 amongst other Teachers working at Government Women's College,



Gulzarbagh & Gardanibagh, Patna, the petitioners were given the benefit of revision of their salary with effect from 01.01.2006 in the UGC revised pay scale of Rs. 15,600-39,100/- and in furtherance of Clause- 3 of the aforesaid resolution the designation of the petitioners was also changed from “Lecturer” to “Assistant Professor”.

**15.** Learned counsel further submitted that petitioners have filed several representations before the concerned authorities under the Education Department from time to time for consideration of their claim for promotion under the Career Advancement Scheme in accordance with law but no decision was taken by the respondent authorities on the representation of the petitioners and suddenly by notification dated 26.05.2016 the petitioners were granted financial progression under the ACP scheme implemented with respect to the employees working in different Departments of the State Government. The grant of ACP to the petitioners in the facts and circumstances of the present case is unreasonable, unfair and is untenable.

**16.** The petitioners are entitled for promotion in the rank of Assistant Professor (Senior Scale) and Associate Professor in terms of the provisions contained in the Career Advancement Scheme that has already been made applicable with respect to



the Teachers working in different Colleges under the Universities within the State of Bihar.

**17.** Per contra, learned counsel for the respondents argued that the Ex-Cadre post of Principal and Lecturers of the said Colleges are only for the purpose of implementing the salary as per the recommendation of the UGC and other benefits to the petitioners are applicable as per the Bihar Education Service Rules.

**18.** The service conditions of the University Teachers are governed by the Universities Act and the UGC Act while the service conditions of Government Women's Colleges are governed by the Bihar Service Code and Rules framed thereunder.

**19.** The Teachers in the Government Colleges are members of Bihar Education Service. Therefore, promotion under the Career Advancement Scheme made under the Universities Act is not applicable to the Government College employees as they are only on wages of the Government of Bihar. The teaching staffs of the Government Women's College are appointed by the Government and they are Government employees, whereas, the Universities Teachers and other Teachers of the Non-Government Colleges affiliated to the



Universities are University employees as such, both cannot be treated equally. The respondents have relied upon the order of this Court passed in L.P.A. No. 211 of 2013 arising out of CWJC No. 14216 of 2012.

**20.** I have heard learned counsel for the parties and have gone through materials on record.

**21.** By letter dated 19.11.1981 issued by the Education Department, Government of Bihar the Teachers / Lecturers working under the Government Women's College, Gulzarbagh / Gardanibagh under the Bihar Education Service Class-I and Bihar Education Service Class- II were declared Ex-Cadre post and the Government decided to extend the benefit of the UGC pay scale revised from time to time to the Teachers working under the Government Women's College, Gulzarbagh and Gardanibagh, Patna.

**22.** The lecturers working in the Colleges in question were also granted time bound promotion in the UGC pay scale upon completion of ten years of regular service on the recommendation of the BPSC vide notification dated 13.07.1993. The State Government in the Higher Education Department issued letter dated 20.07.2001 (Annexure – 6) by which the Government implemented the UGC package which



was communicated to the Registrars of different Universities as well as Principals of the Government Women's College, Gardanibagh and Gulzarbagh. This contained not only the provisions with respect to pay scale admissible to the Teachers working in the Colleges under different Universities but also made applicable to the Teachers working under Government Women's Colleges. It also laid down the provisions in relation to the recruitment and qualification for appointment as Teachers in the Colleges and Universities as well as the provisions regarding Career Advancement Scheme as contained in Clause-7 to the Appendix-I to the said letter. Upon perusal of Appendix-I of the UGC package in relation to the coverage of the package it says that the scheme applies to Teachers in all Universities (excluding Agriculture Universities), Constituent Colleges, Deficit Grant College including minority colleges and Government Girls Colleges. The Teachers working in Agricultural, Medical and Veterinary Colleges were excluded subject to the terms and conditions envisaged in the communication / package. Clause – 7 of the package deals with Career Advancement Scheme.

**23.** It is pertinent to note here that in supersession of the statutes of promotion as assented to by the Hon'ble Chancellor



and notified vide letter no. BSU 20 / 95 – 2133 / GS (I) dated 23.09.1995 & BSU 20 / 95 – 2132 / GS (I) dated 23.09.1995 the statute for Career Advancement Scheme was implemented with effect from 27.07.1998.

**24.** Subsequently, the State Government in the Human Resource Development Department came out with another resolution dated 29.07.2010 by which the benefit of UGC revised pay scale were implemented in relation to the Teachers working in different Colleges and Universities with effect from 01.01.2006 and the same benefit was also extended to the Teachers of the Government Women's College, Gardanibagh / Gulzarbagh, Patna. Save and except the matter of age of superannuation, all other issues including the matter of revised pay scale, appointment and promotion were implemented with effect from 01.01.2006. The petitioners were also extended the benefit of revision of their pay scale with effect from 01.01.2006 under the UGC pay scale and designation of the petitioners was also changed from "Lecturer" to "Assistant Professor".

**25.** From close reading of the decisions of the State Government dated 20.07.2001 as well as 29.07.2010 it is clear that implementation of the UGC package was not only restricted



to the Teachers working in the Colleges under different Universities but also admissible to the Teachers working in the Government Women's College at Gulzarbagh and Gardanibagh, Patna.

**26.** Since 1981 when the post of Lecturer in the Government Women's College at Gulzarbagh & Gardanibagh, Patna were declared as Ex- cadre post, the pay scale including the UGC pay scale admissible to the Teachers working in the Colleges under the Universities were granted to the Teachers in the Government Women's College, Gardanibagh / Gulzarbagh, Patna.

**27.** The reliance upon the judgment of this Court passed in LPA No. 211 of 2013 is not applicable in the facts of the present case inasmuch as the claim of petitioner of that case was regarding enhancement of age of superannuation of Teachers working under Government Women's College. In absence of any policy decision regarding enhancement of age of superannuation, the Appeal filed by the appellant was dismissed but in the present case the petitioners are seeking the benefit under the decision of the State Government regarding grant of benefit of UGC package which was duly notified and made applicable to the Teachers working in the Government Women's





College, Gardanibagh and Gulzarbagh, Patna. Clause- 2 of the resolution dated 29.07.2010 demonstrates that except the issue of age of superannuation all other issues including revised pay scale, appointment and promotion were made applicable to the Teachers working in the Government Women's College, Gardanibagh / Gulzarbagh.

**28.** Considering the discussions held hereinabove and the decision of the State Government in the Higher Education Department to implement the UGC package not only with respect to the Colleges under different Universities but also with respect to the Teachers working in the Government Women's College, Gardanibagh / Gulzarbagh, Patna, in my considered opinion the petitioners are also entitled for consideration of their cases for promotion under the Career Advancement Scheme as contained in Clause- 7 of the UGC package appended to as Appendix- I to the decision of the State Government dated 20.07.2001 in terms of Statutes for Career Advancement Scheme implemented w.e.f. 27.07.1998.

**29.** In the result, this writ application is allowed.

**30.** The respondent / State Government including the respondent / University are directed to consider the case of the petitioners for promotion under the Career Advancement



Scheme as per Clause- 7 of the UGC package appended to as Appendix -I to the letter dated 20.07.2001 in terms of statutes regarding Career Advancement Scheme framed by the Hon’ble Chancellor.

**31.** Final decision in this regard must be taken by the respondents within a period of five months from the date of receipt / production of a copy of this order.

**32.** There shall be no order as to cost.

**(Anil Kumar Sinha, J)**

praful/-AFR

AFR/NAFR	AFR
CAV DATE	20.08.2024
Uploading Date	19-09-2024
Transmission Date	NA

