

**BIHAR HUMAN RIGHTS COMMISSION**  
**9, Bailey Road, Patna – 15**

File No **BHRC/COMP.** 2229/09

Case of **the Teachers and Non-teaching Staff Association of Nunuwati Jagdeo Singh College**

---

The Teachers and Non-teaching Staff Association of Nunuwati Jagdeo Singh College, Bakhtiarpur have approached this Commission complaining of non-payment of salary to the teachers and non-teaching staff concerned – eleven in number – whose names have been mentioned in the application.

Briefly, it is the case of the applicants that they have been continuously working in the college for the last 20-25 years, some of them were appointed on recommendation of the Bihar College Service Commission. They were also paid through bank at times. Request has been made to make enquiry in respect of the grievance and take suitable action.

The matter was heard on different dates. It transpired that the Patna High Court by order dated 19.11.2010 in CWJC No.15473/2010 had directed Magadh University to prepare list of teachers & non-teaching staff of the college so that payment can be made to them from the grant received from the government. In the light of the said order, the University had constituted a three-member committee. The report of the committee has since been brought on record on the direction of the Commission.

At this stage, it may be mentioned that the case of the college management inter alia is that services of most of the concerned teachers/staff in question were terminated in October 1998 itself on the ground of continuous absence from duty, the services of others were terminated when they failed to respond to public notice to report for duties. As against one of them, the management's case is that he had defalcated the college funds for which he was removed from service.

In course of hearing the Commission clarified that it would not go into issues relating to employment including the validity of the appointment or termination of service of the teachers and staff in question. Employment cannot be claimed as a part of human right, and the Commission has no power to make any 'adjudication' on disputes lying in the realm of service matters. The Commission observed that it would confine itself to the question of salary for the services rendered by them.

The report of the Committee (supra) corroborates the management's case about termination of service in October 1998 and so on. The committee has

expressed reservations about the validity of termination orders on the ground that the same was done without serving show-cause notice and following the due procedure.

If the services of the teachers/staff stand terminated since 1998 it would follow that they did not work at least post-1998 and therefore the claim for payment of salary cannot be upheld. It may be that if the termination of service is declared to be bad and illegal by a competent court, they may be entitled to salary etc. on the logic that they were prevented from working on the post. The normal rule however is that the person is to be paid emoluments for the work/service rendered by him.

As regards the pre-1998 period, the Commission would not like to make any enquiry as the claim has become stale and time-barred as per section 36(2) of the Protection of Human Rights Act, 1993. Courts also do not entertain stale claims. Even if it were to take a broader view, clearly, it would require a detailed investigation on the point and the Commission would find it difficult to make such an investigation concerning as many as 11 persons for specific months spread over a long period of time.

It would not be out of place to mention here that it is the case of the management that after the termination of their services many of the teachers/employees got engaged in different avocations – as contractor, panchayat teachers, politics etc.

In the circumstances, the Commission would decline to pursue the matter further.

File is closed.

Copy of this order may be sent to the applicants and the college management for information.

Justice S.N. Jha  
Chairperson

Justice Rajendra Prasad  
Member

Date: 17.02.2012