

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1926 of 2014

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Babulal Ram, Son of Sonari Lal Ram, resident of Referral Hospital
Barbigha, District- Sheikhpura.

.... Petitioner/s

Versus

1. The Tilka Manjhi Bhagalpur University through its Registrar, Bhagalpur.
2. The Vice Chancellor, T.M.Bhagalpur University, Bhagalpur.
3. The Registrar, T.M.Bhagalpur University, Bhagalpur.
4. The Pro Vice Chancellor, T.M.Bhagalpur University, Bhagalpur.
5. The Principal, S.K.R.College, Barbigha.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

8 24-02-2015 Sri Krishna Kumar, Professor-in-charge of S.K.R.

College, Barbigha is present pursuant to the order of this Court
dated 09.02.2015, relevant portion where reads as follows:

"Having heard learned counsel for the parties and in view of the stand taken by the Principal of S.K.R., College, Barbigha vide letter no. 361/14 dated 01.12.2014, this Court would direct the Principal of the said College to appear in person along with the records of last payment drawn by the petitioner while he was serving in College prior to his date of retirement in the year 2003. In other words, the admitted signature of the petitioner on the basis of which his payment of salary and emoluments was made to him prior to the date of his retirement should be brought before this Court by the Principal for its being compared with the signature in the vakalatnama and the affidavit to find out as to how much importance can be given to the claim of the Principal that the petitioner has already died. It would also be open for the petitioner to produce any evidence as with regard to the alleged death. At the same time the petitioner also may produce cogent evidence, so that after his retirement in the year 2003, he still continues not only in this world but also his story of death is an afterthought, only to deny him the necessary dues.

Put up this case on 24th of February, 2015,

under the heading '**for orders**', for its final disposal. when the Principal of the aforesaid college shall remain present in person as well as the petitioner must also remain present in person."

2. Today, Sri Krishna Kumar, Professor-in-charge of S.K.R. College, Barbigha frankly admits that his information given to the university on 01.12.2014 reporting the petitioner to be dead and there being no authentic claimant of his post-retirement benefit was based on hearsay and that he did not have information as even of now much less any proof of the death of the petitioner.

3. Sri Krishna Kumar has also produced the attendance register of January 2003 wherein the petitioner has put his signature and such signature on being compared with his affidavit and Vakalatnama filed in this case appeared to be exactly same. As a matter of fact, Sri Krishna Kumar, Professor-in-charge of S.K.R. College, Barbigha has got no proof much less any documentary evidence with regard to death of the petitioner so as to deny him the benefit of retirement benefit as prayed in this writ application.

4. In that view of the matter, when this Court would find that there is also no dispute with regard to following relief prayed in this writ application:

"1.I. Issuance of an appropriate writ including a writ in the nature of writ of mandamus directing and commanding the respondents to forthwith sanction and pay the remaining retiral dues of the petitioner who superannuated from service as Class IV (Sweeper) employee on 31.05.2003 from

S.K.R.College, Barbiga, Sheikhpura which the respondents are not paying in spite of repeated reminders and necessary actions. The unpaid retiral dues including pension, gratuity, leave encashment and other dues.

II. Issuance of an appropriate writ including a writ of mandamus, commanding and directing the respondents to pay all the dues with interest from the time they became due till the actual payment of the dues",

there will be no difficulty in directing the competent authority of the university to make payment of all the retirement benefit of the petitioner as would be legally payable and admissible to him.

5. Let it be noted that the respondent no. 1 to 3 in their counter affidavit, in fact, have also found the petitioner entitled for payment of pension and Gratuity as would be evident from reading of paragraph 4, 5 and 6 which reads as follows:

"4. That as per the calculation the university authorities, they have ascertain monthly pension of petitioner at Rs. 3,500/-, inclusive of all admissible dearness reliefs.

5. That University has calculated gratuity of petitioner to the tune of Rs. 66,381/-.

6. That so far the arrear of pension is concerned, it has been calculated from June 2003 to October 2014, which stands at Rs. 5,99,949."

6. In view of the admission on the part of the university that the petitioner is entitled for monthly pension from June 2003 and his arrears towards pension for the period June 2003 to October 2014 was to the tune of Rs. 5,99,949/- and that the payable amount of the Gratuity of the petitioner was to the tune of Rs. 66,381/-, this Court would direct that not only the aforementioned amount of pension (both arrear and current) and Gratuity but even other retirement benefit such as amount of leave

encashment, group insurance, which have not been paid to the petitioner as yet, must be paid to him within a period of one month from the date of receipt of a copy of this order.

7. Since, the petitioner has been deprived of his legitimate amount of his retirement benefits, he would be entitled for payment of interest @ 5% per annum as per the Government circular and this amount of interest shall be recovered from the erring officials of the university/college including the present Professor-in-charge who was for some time responsible in denying of post retirement benefit to the petitioner by submitting a false report regarding death of the petitioner as contained in Annexure-A to the counter affidavit.

8. The university, in fact, should also reconsider as to whether a person irresponsible like the present Professor-in-charge of S.K.R. College, Barbiga namely Sri Krishna Kumar, should be allowed to hold the post of Professor-in-charge who had not only filed a false report to the University regarding death of the petitioner but has also failed to explain to this Court as to what other retirement benefits were already paid to the petitioner.

9. With the aforementioned observation and direction, this writ application is disposed of.

10. The personal appearance of Sri Krishna Kumar,

Professor-in-charge of S.K.R. College, Barbiga is hereby dispensed with.

11. Let a copy of this order be sent to Registrar of Tilka Manjhi Bhagalpur University for its compliance in letter and spirit.

(Mihir Kumar Jha, J)

Sujit/-

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