

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3079 of 2012

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Ram Sewak Singh Son of Late Priyabrat Narayan Singh Resident Of Village -
Kashore , Via Warish Nagar, P.S.- Warish Nagar, District - Samastipur

.... Petitioner/s

Versus

1. The State of Bihar, through The Principal Secretary, Human Resources Development Department, Bihar, Patna
2. The Secretary, Human Resources Development Department, Bihar, Patna
3. Lalit Narayan Mithila University, Kameshwar Nagar Darbhanga, Through Its Registrar
4. The Vice Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga
5. The Registrar, Lalit Narayan Univrsity, Kameshwar Nagar, Darbhanga
6. Principal , Samastipur College, Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 29-09-2015

Heard learned counsel for the parties.

The petitioner is aggrieved by reduction in his

pensionary benefits by the University.

Learned counsel for the petitioner submits that the petitioner superannuated from the post of Assistant on 31.01.1998. Thereafter, pursuant to order of the Court in CWJC No. 13427 of 2003, the pension was started. The amount of pension however was reduced from Rs. 11,618/- per month to Rs. 9,414/- per month without any intimation or notice to the petitioner. Learned counsel submits that after 13 years of retirement the action of the University is totally arbitrary and unsustainable in law. Learned counsel submits that the ostensible reason for such reduction is that the State Auditor had objected to payment to the petitioner on the post of Assistant as no such post was sanctioned and thus the pay-scale of the petitioner has been notionally reduced resulting in reduction in his monthly pension.

Learned counsel for the University submits that the objection raised by the State was the reason for the University in reducing the monthly pension and thus the petitioner having worked and drawn salary of the post which was non-existent, action of the respondents is justified.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the contention of learned counsel for the petitioner.

The petitioner having discharged his duties and superannuating in the year 1998, getting monthly pension till May,

2011 and the admitted position being that the emoluments received by the petitioner was neither at his behest, based on any misrepresentation or fraud on his part and further the reduction being without any prior show cause or notice, that too after 13 years of his superannuation, is fit to be set aside on the short point of violation of the principle of natural justice. The respondents also have not taken any plea with regard to there being any complicity of the petitioner either in holding the post or getting the pay and other emoluments of the said post till his retirement or even 13 years after superannuation.

In view of the aforesaid, the impugned action of the University in reducing the monthly pension of the petitioner is set aside. The petitioner shall receive his pension based on the last pay drawn by him at the time of superannuation. Any deduction/recovery made shall be refunded to him. Let the same be done within two months from the date of production of a copy of this order before the respondent no. 5.

The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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