

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3973 of 2015

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Kailash Prasad Agrawal son of late Balmukund Agrawal, resident of Mohalla/ village Raj Kumar Ganj, P.S. Town Darbhanga, District Darbhanga

.... Petitioner

Versus

1. The State of Bihar through Commissioner cum Secretary Higher Education Govt. of Bihar, Patna
2. The Vice Chancellor of LNM University, Darbhanga
3. The Registrar LNM University Darbhanga
4. The Finance Officer LNM University, Darbhanga
5. The Principal C.M.College, Darbhanga

... Respondents

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Bhagat, Adv.
For the Respondent/s : Mr. M.K. Singh- SC6
For the University : Mr. A.B.Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 24-03-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ application reads as follows:

“(i) For issuance of a writ in the nature of mandamus directing the authority to pay entire post retiral dues to the petitioner which is due on the respondent University since September, 2013.

(ii) For issuance of a writ in the nature of mandamus directing the respondents authorities to release money for the payment of petitioner’s dues when fund is available in the University and the authorities are not being made payment to the petitoners.

(iii) For issuance of further writ commanding the respondents to pay the 18% compound interest as well as panel interest “Head-wise from the date of its actual payment to date of payment.”

For all these aforementioned vague prayers learned counsel for the petitioner ultimately has sought to zero the relief by making the following submissions.

According to the learned counsel for the petitioner, when the petitioner had retired on 30.9.2013 he was entitled to get the salary for the period of work done by him in lieu of the strike period. Learned counsel, however, very fairly submits that such strike period or its substitute work is an event of the year 2000. Thus the moment this fact is admitted that the petitioner wants payment of the year 2000 by filing this writ application in the year 2015, such a claim will have to be rejected in view of the law laid down by the Apex Court in the case of Union of India & ors. v. Tarsen Singh, reported in (2008)8 SCC 648, wherein it has been held that the maximum period of which the arrear can be claimed by the employee is only three years from the date of filing of the writ application or from the date of demand to the date of filing of the writ application whichever is lesser. The apex court infact in this regard has held as follows:-

".....Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.

8. In this case, the delay of sixteen years would

affect the consequential claim for arrears. The High Court was not justified in directing payment of arrears relating to sixteen years, and that too with interest. It ought to have restricted the relief relating to arrears to only three years before the date of writ petition, or from the date of demand to date of writ petition, whichever was lesser. It ought not to have granted interest on arrears in such circumstances”.

This Court also must make it clear that a mere writing of letter by the petitioner that the petitioner has engaged classes in view of work of the strike period can never be sufficient. These are the matters of details and evidence and would require specific verification as to when the petitioner had engaged classes and if so, under whose instructions and who were the beneficiaries of his taking such classes. This however cannot be now in fact examined by anyone after lapse of 15 years and therefore, this Court is not in a position to direct for payment of any amount for the alleged work done by the petitioner in lieu of absence of the petitioner in the strike period.

Similarly this Court will find it difficult now to reopen the issue of grant of Ph.D. increment. As stated by the petitioner, the petitioner was granted such Ph.D. increment from 2005 but he now says that he ought to have been given such Ph.D. increment from 1998.

It would, thus, become clear that again a cause of action

of the year 1998 has been sought to be agitated by filing this writ application in the year 2015 which again cannot be permitted in view of the law laid down by the Apex Court in the case of Tarsen Singh (supra). Thus, the second grievance of the petitioner with regard to grant of Ph.D. increment is also hereby rejected.

Reverting back to the third relief of payment of interest on the amount of group insurance, this Court would direct that as such amount of group insurance must have been paid only after retirement of the petitioner, if the petitioner is entitled to higher amount of 12% per annum or any other amount beyond the amount of 5% per annum the same should be recalculated and the balance amount must be paid to the petitioner within a period of three months from the date of receipt of this order.

Learned counsel for the petitioner submits that beyond all these three claims the petitioner has no other claim because his all other claim of retirement benefit has already been settled.

That being so, this writ application is disposed of with a direction to the competent authority to only look into the aspect of payment of additional interest of the admissible on the amount of Group Insurance and if found payable it should also be paid to the petitioner.

(Mihir Kumar Jha, J)

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