

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 908 of 2013

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Ram Narayan Roy, Son of Late Rajdeo Roy, Resident of Kharidabad, Magardahi,
P.S. Samastipur, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Bihar, Patna.
2. L.N. Mithila University, Darbhanga through its Registrar.
3. Vice Chancellor L.N. Mithila University, Darbhanga.
4. Registrar, L.N. Mithila University, Darbhanga.
5. Principal, B.R.B. College, Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 06-10-2015

Heard learned counsel for the parties.

The petitioner is aggrieved by reduction of his
pension fixed pursuant to his superannuation on 30.11.2005.

Learned counsel for the petitioner submits that
after entering service as Lecturer in Hindi on 25.11.1969, he was
ultimately promoted to the post of Professor and retired as Head of
the Department of Hindi from B.R.B. College, Samastipur which
is a constituent unit of the respondent University. Learned
counsel submits that even after his superannuation when he was
not paid his retiral dues, he moved the Court in C.W.J.C. No.
3673 of 2009 and by a common order on 25.08.2009, the writ
petition was disposed off directing the petitioner to file
representation before the Vice Chancellor who was to consider the
same, in accordance with law so that pending claims could be



settled with statutory interest without delay. When the representation filed by the petitioner remained undisposed, he again moved the Court in M.J.C. No. 4994 of 2010 and during the pendency of the said contempt petition, his post retiral dues were cleared though for the pre retiral dues, it was observed that the same would be paid immediately on receipt of the fund from the State Government and accordingly the case was disposed off on 22.02.2012. Learned counsel submits that the petitioner was peacefully drawing his pension but suddenly from the month of June, 2011, the same was reduced without there being any prior intimation, notice or show cause and also without disclosing any reason for such action. Learned counsel submits that for the first time, by way of counter affidavit, an explanation has come in which the stand is that since the college where the petitioner was working was not affiliated, most likely for the period 1973-74, his services can be counted only with effect from 21.03.1975 and accordingly after demoting him, his pension has now been revised. Learned counsel submits that the petitioner was never party to any of the pay fixation by the University, even pursuant to an order by the Court in C.W.J.C. No. 5859 of 1996 and the subsequent direction of the State Government contained in Letter No. 1118 dated 28.09.2005, according to which also the petitioner continued on the scale and grade he was working without any controversy and thus the respondents suddenly becoming wise and turning the clock back and also demoting the



petitioner and reducing his pension cannot be permitted to do so. Learned counsel submits that even the Courts have settled the law relating to such reduction/recovery and because of efflux of time and the matter relating to the period prior to 1975 and till date the University not having come up with a specific case against the petitioner or even issuing any notice or show cause, the action is unsustainable in law.

Learned counsel for the State, referring to his counter affidavit, submits that the issue has to be basically decided by the University.

Learned counsel for the University defends the action on the ground that the petitioner's college was granted affiliation in 1975. However, he is not in a position to deny that till date the petitioner has not been asked any show cause and that there was no role of the petitioner in fixation of his salary etc.

Upon considering the facts and circumstances of the case and submissions of learned counsel for the parties, the emoluments of the petitioner having been fixed by the University and promotion granted to him without there being any role of the petitioner in the same or any fault or misrepresentation by him, cannot be suo motu and unilaterally revised after a gap of more than 40 years and that too not in the manner as is required under law and at least affording an opportunity to the concerned, on the short point of violation of principles of natural justice as well as the issue being hopelessly stale, the action cannot be

sustained.

Accordingly, the Court holds that the petitioner shall be entitled to the pension he received pursuant to his superannuation and any deduction made in the same is held to be impermissible. Any amount which may have remained unpaid due to such reduction shall be paid to the petitioner.

Let the exercise be completed within a period of one month from the date of production of a copy of this order before the respondent no. 4.

The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

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