

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 5394 of 2012

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Dr. Triyugi Prasad S/O Late Dwarka Prasad Resident of Village/Mohalla-Shrikrishnapuri, B-174, P.S.-Shrikrishnapuri, District-Patna.

.... Petitioner/s

Versus

1. The State Of Bihar through Secretary, Science & Technology Dept., Govt. of Bihar, Patna.
2. The Patna University through its Vice Chancellor Patna University, Patna.
3. The Registrar, Patna University, Patna.
4. The Finance Officer Patna University, Patna.
5. The Budget & Accounts Officer, Patna University Patna.
6. The Former Principal, Bihar College of Engineering, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Niraj Kumar, Adv.
For the Respondent/s	:	Mr.
For the University	:	Mr. Soni Shrivastava, Advocate.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 24-11-2015

Heard learned counsel for the parties.

The issue which remains to be sorted out in the present writ application is whether the petitioner having superannuated on 31.10.1999 is entitled to payment of leave encashment to a maximum of 180 days or 240 days.

Learned counsel for the petitioner submits that at the relevant time when the petitioner superannuated, the State Government had already approved the enhancement of the maximum period of leave encashment from 180 days to 240 days and thus the petitioner is also entitled to payment accordingly. It is submitted that in various decisions, the Hon'ble Court has found the entitlement of such persons to payment of leave encashment from December, 1986. In support of such contention

he has relied on a decision of a Bench of this Court in the case of **Prof. Surendra Bahadur Singh v. State of Bihar** decided on 15.09.2006 and reported in **2006(4) PLJR 369** as well as the decision of the Hon'ble Supreme Court dated 18.01.2013 in **Civil Appeal No. 516 of 2013 (State of Bihar & Anr. Vs. Sunny Prakash & Ors.)**.

As per the supplementary counter affidavit filed on behalf of the Patna University, it has been stated that though the Patna University has accepted the position but the office order dated 20.12.1990 clearly stipulates that payment would be made only after the said is approved by the Hon'ble Chancellor. It is thus submitted that the matter is still pending at the level of the Hon'ble Chancellor and once the same is approved, earned leave up to a maximum of 240 days will be admissible and paid to the employees including the petitioner. It is submitted that reminders have also been sent to the Principal Secretary of the Hon'ble Chancellor and the approval is awaited.

Considering the aforementioned facts and circumstances, the Court is unable to issue any positive direction upon the respondents to make payment with regard to earned leave to a maximum of 240 days as the necessary formalities do not seem to have been completed, even though the Government may have agreed and the University also recommended in favour of doing so.

In view of the aforesaid position, the writ petition

stands disposed off with liberty to the petitioner to move before the Hon'ble Chancellor praying to expedite the matter, considering the fact that the Courts in various decisions have also held that in view of the State Government decision to give such benefit to the employees of the University, the same may be granted to them in accordance with law.

The Court expects that once a decision is taken by the Hon'ble Chancellor, the University shall ensure compliance and payment to the petitioner within four weeks thereafter.

(Ahsanuddin Amanullah, J.)

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