

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2618 of 2015

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Lakshmidhar Tiwary Son of Late Ram Nandan Tiwary Resident of Village -
Repura, Post - Bisundattpur, P.S- Karja, District - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through The Principal Secretary, Education Department,
Bihar, Patna.
2. B.R. Ambedkar Bihar University, Muzaffarpur through its Registrar.
3. Vice Chancellor, B.R. Ambedkar, Bihar University, Muzaffarpur.
4. Registrar, B.R. Ambedkar Bihar University, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava, Adv.
For the University : Mr. Fauzia Shakil, Adv.
Mr. Jay Prakash Singh, Adv.
For the State : Mr. U.S.S. Singh, GP-1
Mr. Uday Bhan Singh, AC to GP-1

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 06-04-2015

Heard learned counsel for the parties as with regard to the
following prayer made in this writ application:-

- "1(i) *Issuance of a direction, order or writ, including writ in the nature of certiorari quashing the letter dated 06/01/2014 issued by the concerned authorities under the B.R. Ambedkar Bihar University, Muzaffarpur (hereinafter referred to as "the University") containing the pension payment order in respect of the petitioner, by which the petitioner's basic pension has been fixed at Rs. 9190/- per month treating the petitioner to have retired from the services of the University while drawing his salary in the pay scale of Rs. 4000-6000/-;*
- (ii) *Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the*



concerned respondent authorities under the University to take steps towards fixing the pension of the petitioner on the basis of the last pay drawn by him as an Upper Division Assistant in the pay band of Rs. 9300-34800/- with grade pay of Rs. 4200/- till the date of his retirement from the services of the University on 31/10/2013.

- (iii) *Issuance of a direction, order or writ including writ in the nature of mandamus commanding the concerned respondent authorities under the University to take steps towards making payment and extending the benefits of gratuity, earned leave and group insurance in favour of the petitioner, which has been denied to him till date without there being any just and valid reason support thereof;"*

It is really unfortunate that lastly the counter affidavits are being filed by the authorities of the B.R. Ambedkar Bihar University. The whole dispute in this writ application is with regard to quantum of the amount of retirement benefit depending largely on the entitlement of the petitioner as to whether he would be getting his all retirement benefit in the pay-scale in which he had retired i.e. Rs. 5000-8000 or its enhancement made by the State Government in the pay-scale of Rs. 5500-9000 from the one in which the University has calculated the amount and also paid some of them as stated in paragraph no.5 of the counter affidavit. As a matter of fact, the University had to accept this aspect as to why the petitioner has been subjected to reduction of his total emoluments by way of post



retirement benefit by bringing him in the pay-scale of Rs. 4000-6000 though he continued to get his salary till the date of retirement in the pay-scale of Rs. 5000 - 8000 and/or its replacement scheme as revised by the State Government from time to time.

The reliance placed by the learned counsel for the University on a communication of the Principal Secretary of the Education Department to all the Registrar to send related information of all the employees of all the University in the prescribed proforma for verification of the pay-fixation of the concerned employee in fact is hardly an explanation because the University, in the counter affidavit, has not even stated that pursuant to the aforesaid letter, when the University had sent the details relating to the petitioner showing him to be withdrawing his pay and emolument in the pay-scale of Rs. 5000-8000, the same was slashed by the Pay Verification Cell in course of verification to Rs. 4000-6000. In absence of such averment in the counter affidavit, mere production of the aforesaid government letter is of no consequence.

Let it be noted that in this case, a separate counter affidavit has also been filed on behalf of the respondent no.1 State of Bihar sworn by the Under Secretary of Education Department wherein the entire onus for payment of retirement benefit including the monthly pension has been shifted on the authorities of the University by stating

that the University is the custodian of records relating to service history of the petitioner.

In such a situation, this Court, in order to shorten this unnecessary dispute, would direct the respondent no.1 to get the verification of the pay of the petitioner made within a period of one month from the date of receipt of the details in the prescribed proforma from the Registrar of the University and the Registrar of the University must also do the needful in this regard by sending all the details relating to service history of the petitioner as early as possible but, in no event, beyond a period of one month from the date of receipt of this order.

Whatever amount thereafter fixed by the verification cell subject to its being assailed by the petitioner, the payment of entire retirement benefit either by way of monthly pension or other consolidated amount such as gratuity, leave encashment etc. must be paid by the authorities of the University in next one month from the date of the order of Pay Verification Cell duly forwarded by the competent authority of the Education Department.

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

(Mihir Kumar Jha, J)

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