

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 12238 of 2011

Along with

Interlocutory Application No. 8495 of 2015

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Dr. Binay Kumar, Son of Late Janak Prasad, Resident of Mauar Lane, Sultanganj,
Mahendru, P.S.-Sultanganj, Distirct-Patna.

.... Petitioner/s

Versus

1. The Patna University, Patna, through its Registrar.
2. The Vice Chancellor, Patna University, Patna.
3. The Registrar, Patna University, Patna.

.... 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: 26-11-2015

Heard learned counsel for the parties.

The writ petition was filed for a direction to the Patna University to pay retirement benefits to the petitioner who had superannuated on 31.08.2009 from the post of Micro Analyst in the Department of Chemistry of the University.

It appears that pursuant to the filing of the writ petition, his post retiral benefits have been sanctioned and paid to him which have been detailed in the counter affidavit filed on behalf of the University, though finally in the year 2013.

The said retiral benefits have been paid, treating the petitioner to be holding the post of Micro Analyst on the pay scale which was approved by the State Government. As per the counter affidavit, the initial pay of the petitioner which was approved by the Department of Higher Education, Government of



Bihar was by letter dated 21.01.2000 in the pay scale of Rs. 1640-2900/- with effect from 01.01.1986. Thereafter, the 5th Pay Revision was implemented with effect from 01.01.1996 and under the State Government letter dated 12.10.2004, the petitioner was granted the replacement scale of Rs. 1640-2900/- to Rs. 5000-8000/-. Thereafter, pursuant to the 6th Pay Revision, the State Government granted the pay scale of Rs. 9300-34800/- plus Grade Pay of Rs. 4200/- to Micro Analyst with effect from 01.01.2006. The petitioner finally superannuated on 31.08.2009.

Now at this belated stage, the petitioner seeks to challenge the action of the respondent University in not granting him the pay scale of a teaching post which according to learned counsel for the petitioner is erroneous, as the same has been decided by the Court in various decisions. Thus, Interlocutory Application No. 8495 of 2015 has also been filed to amend the writ petition for correctly fixing his scale with effect from 01.01.1996 and 01.01.2006 respectively.

Having considered the entire matter, in view of the relief claimed in the writ petition, being that to grant post retiral benefits to the petitioner accepting him to have retired from the post of Micro Analyst and the same having been done and the petitioner not having challenged the pay scale which was approved by the State Government and granted to him by the University right from the initial period i.e., 01.01.1986, 01.01.1996 and thereafter 01.01.2006, at this belated stage

cannot raise a plea that his post be treated as a teaching post when admittedly during his entire career, neither was he given such scale nor he ever agitated for the same to be given. Thus, the Court is of the opinion that such relief cannot be granted in the present writ application as it shall change the very nature of the litigation.

Accordingly, the writ petition as well as Interlocutory Application No. 8495 of 2015 stand disposed off.

However, if the petitioner is aggrieved by any action of the University relating to his service rendered under the University, he shall be at liberty to move the appropriate forum in accordance with law.

(Ahsanuddin Amanullah, J.)

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