

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1225 of 2013

IN

Civil Writ Jurisdiction Case No. 10640 of 2008

1. The State of Bihar

2. The Director, Higher Education, Government of Bihar, Patna

.... Respondents- Appellants

Versus

1. Sachchida Nand Verma, son of late Dashrath Prasad Verma, resident of Village-Sheonagar, PO- Bhandari, P.S.- Belsand, District- Sitamarhi, a Superannuated employee as University Professor from Ganesh Dutta College, Begusarai, a Constituent Unit of L. N. Mishra University, Darbhanga.

.... Petitioner-Respondent 1st Set.

2. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.

3. The Registrar, Lalit Narayan Mithila University, Darbhanga.

4. The Finance Officer, Lalit Narayan Mithila University, Darbhanga.

5. The Principal, Ganesh Dutta College, Begusarai.

.... Respondents-Respondents 2nd Set.

With

Letters Patent Appeal No. 865 of 2013

IN

Civil Writ Jurisdiction Case No. 10640 of 2008

1. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.

2. The Registrar, Lalit Narayan Mithila University, Darbhanga.

3. The Finance Officer, Lalit Narayan Mithila University, Darbhanga.

.... Respondents-Appellants

Versus

1. Sachchida Nand Verma, son of late Dashrath Prasad Verma, resident of Village-Sheonagar, PO- Bhandari, P.S.- Belsand, District- Sitamarhi, a Superannuated employee as University Professor from Ganesh Dutta College, Begusarai, a Constituent Unit of L. N. Mishra University, Darbhanga.

.... Petitioner-Respondent 1st Set.

2. The Principal, Ganesh Dutta College, Begusarai

.... Respondent-Respondent 2nd Set.

3. The State of Bihar

4. The Director, Higher Education, Government of Bihar, Patna

.... -Respondents- Respondent 3rd Set.

With

Letters Patent Appeal No. 1294 of 2013

IN

Civil Writ Jurisdiction Case No. 16404 of 2007

1. Lalit Narayan Mithila University, Darbhanga through its Vice Chancellor

2. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga

3. The Registrar, Lalit Narayan Mithila University, Darbhanga

4. The Finance Officer, Lalit Narayan Mithila University, Darbhanga

.... Respondents-Appellants

Versus

1. Baidya Nath Choudhary, Son Of Late Surya Narayan Chaudhary, resident of Mohalla - Professor Colony, Power House Road, Begusarai, P.S. Begusarai, District – Begusarai.

.... Petitioner-Respondent 1st Set.

2. The Principal, G.D. College, Begusarai

Respondent- Respondent 2nd Set.

3. The State of Bihar.

4. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.

.... Respondents –Respondents 3rd Set

With

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Letters Patent Appeal No. 54 of 2014

IN

Civil Writ Jurisdiction Case No. 6938 of 2013

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1. The Vice Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga

2. The Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga

3. The Finance Officer, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga

.... Respondents-Appellant/s

Versus

1. Dr. Syed Hussain Imam, son of Late Syed Abdul Quddrus, resident of Mohalla- Pokharia- Ward No. 29, P.O.- Begusarai, District- Begusarai, a superannuated employee from the post of University Professor, Ganesh Dutt College, Begusarai, a Constituent Unit Of L.N. Mithila University, Darbhanga.

.... Petitioner-Respondent 1st Set

2. The State of Bihar.

3. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.

Respondents- Respondent 2nd Set.

4. The Principal, G.D. College, Begusarai

.... Respondent –Respondent 3rd Set

With

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Letters Patent Appeal No. 1083 of 2013

In

Civil Writ Jurisdiction Case No.16404 of 2007

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1. The State of Bihar

2. The Principal Secretary, Human Resources Development Department (Presently the Department Of Education), Government of Bihar, Patna

.... Respondents-Appellants

Versus

1. Baidya Nath Choudhary, Son Of Late Surya Narayan Chaudhary, resident of Mohalla - Professor Colony, Power House Road, Begusarai, P.S. Begusarai, District – Begusarai.

.... Petitioner-Respondent 1st Set.

2. Lalit Narayan Mithila University, Darbhanga through its Vice-Chancellor

3. The Vice-Chancellor, Lalit Narayan Mithila University, Darbhanga

4. The Registrar, Lalit Narayan Mithila University, Darbhanga
5. The Finance Officer, Lalit Narayan Mithila University, Darbhanga
6. The Principal, G.D. College, Begusarai

.... Respondents- Respondent 2nd Set.

With

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Letters Patent Appeal No. 875 of 2014
IN
Civil Writ Jurisdiction Case No. 16404 of 2007

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1. Buddhi Nath Choudhary
2. Shakti Nath Choudhary
3. Dr. Mukti Nath Choudhary,

All are sons of Late Baidya Nath Chaudhary, Resident of Mohalla - Professor Colony, Power House Road, Begusarai, P.S. Begusarai, District – Begusarai.

.... Appellant/s

Versus

1. The State of Bihar
2. Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna
3. The Vice - Chancellor, Lalit Narayan Mithila University, Darbhanga
4. The Registrar, Lalit Narayan Mithila University, Darbhanga
5. The Finance officer, Lalit Narayan Mithila University, Darbhanga
6. The Principal, G.D. College, Begusarai

.... Respondents- Respondents.

With

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Letters Patent Appeal No. 1323 of 2013
IN
Civil Writ Jurisdiction Case No. 21317 of 2012

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1. The Vice Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga
2. The Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga
3. The Finance Officer, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga .

.... Respondents- Appellant/s

Versus

1. Ajay Kumar Jha, son of Late Raj Narayan Jha, Resident Of Kashipur (East B. Ed. College, Samastipur), Police Station - Samastipur, District - Samastipur, Retired As University Professor From Samastipur College, Samastipur, A Constituent Unit Of L.N. Mithila University, Darbhanga.

.... Petitioner-Respondent 1st Set.

2. The State of Bihar

3. The Principal Secretary, Higher Education, Government of Bihar, New Secretariat, Patna.

Respondents- Respondent 2nd Set.

4. The Principal, Samastipur College, Samastipur.

Respondent- Respondent 3rd Set.

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Appearance :

(In LPA No. 1225 of 2013)

For the Appellant/s : Mr. J. S. Barnwal, G.A.5
Mr. Sanjay Kumar, A.C. to G.A.5
For the Respondent/s : Mr. Yugal Kishore, Senior Advocate
Mr. Shashi Bhushan Singh, Advocate
Mr. Virendra Prasad, Advocate

(In LPA No. 865 of 2013)

For the Appellant/s : Mr. Santosh Kumar Jha, Advocate
For the Respondent/s : Mr. Yugal Kishore, Senior Advocate
Mr. Shashi Bhushan Singh, Advocate
Mr. Virendra Prasad, Advocate

(In LPA No. 1294 of 2013)

For the Appellant/s : Mrs. Binita Singh, Advocate
For the Respondent/s : Mr. Shashi Bhushan Singh, Advocate

(In LPA No. 54 of 2014)

For the Appellant/s : Mr. Ajay Behari Sinha, Advocate
For the Respondent/s : Mr. Rajiv Kumar Singh, G.P.2

(In LPA No. 1083 of 2013)

For the Appellant/s : Mr. J. S. Barnwal, G.A.5
Mr. Sanjay Kumar, A.G. to G.A.5
For the Respondent/s : Mr. Ajay Bihari Singh, Advocate
Mr. Shashi Bhushan Singh, Advocate

(In LPA No. 875 of 2014)

For the Appellant/s : Mr. Yugal Kishore, Senior Advocate
Mr. Shashi Bhushan Singh, Advocate
Mr. Virendra Prasad, Advocate
For the Respondent/s : Mr. Jai Shankar Barnwal, G.A.5

(In LPA No. 1323 of 2013)

For the Appellant/s : Mr. Ajay Behari Sinha, Advocate
For the Respondent/s : Mr. Kinker Kumar, S.C.-27
Mr. Mahboob Ashraf, A.C. to S.C.-27

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 28-01-2015

This batch of Letters Patent Appeals, except LPA No.875 of 2014, is filed by the State of Bihar or the concerned Universities, against the common order dated 15.03.2013 passed by the learned Single Judge in CWJC

No.16404 of 2007 and batch cases.

The writ petitions were filed by retired employees of the various Universities in the State. The Universities as well as the Government introduced the Pension Scheme by enacting a Statute for the employees of the Universities, in the year 1982. Initially, three different schemes were provided therein. The employees were given an option to choose any one of them, before the cut-off date i.e. 23.02.1983. Options were exercised for one scheme or the other. However, at a later stage, that is beyond the cut off date, the options were changed. The University was acting upon the changed option also.

Faced with this situation, the Government initiated steps to amend the Statute, to prevent the frequent changing of options. Draft amendment was submitted to the Governor for approval. Through letter dated 20.12.2005 of the Governor Secretariat, approval was accorded to the proposed amendment in the form of introduction of Article 4B, in exercise of power under sub-section (6) of Section 36 of the Bihar State Universities Act, 1976. The amendment is to the effect that option initially made or changed thereafter up to the date of the amendment shall be acted upon, but henceforth no change of option shall be entertained. As a deterrant, a proviso was added to the effect that in case, any

change of option is entertained, the concerned official will be liable for the differential amount and the same will be recovered by invoking the provisions of the Bihar Public Demands Recovery Act, 1914.

Stating to be as a step for enforcing the Article 4 B of the Statute, the appellants herein denied the benefit of changed option to the respondents. The respondents felt aggrieved by that and filed the writ petitions. It was pleaded that Article 4B did not cancel or annul the options that have been exercised earlier and there was no basis for the appellants in denying that benefit to the respondents.

The writ petitions were opposed by the appellants herein. It was pleaded that the amendment has the effect of annulling all the change of option subsequent to the cut off date, i.e. 23.02.1983.

The learned Single Judge allowed the writ petitions, by taking the view that the amendment has not adversely affected the options that have been exercised by the respondents. Hence, these Letters Patent Appeal.

Heard Sri J. S. Barnwal, learned counsel for the appellants and Mr. Yugal Kishore, learned Senior counsel for the respondents.

The benefit of pension was extended to the employees of the Universities that joined the service of the

Universities, or constituent colleges before 1st of April, 1978 and continued in service by the time the Statute was made.

As mentioned earlier, the employees were given option to choose the benefit under one of the three schemes before the cut off date 23.02.1983. Though options were exercised within that time, the employees went on changing options, switching over from one scheme to another. That, naturally, gave rise to fluidity of situation and financial burden to the State. With a view to curb the indiscriminate change of option, the Statute was amended by introducing Article 4 B. It reads thus:

“4B. Notwithstanding anything to the contrary as contained in the Statute for the grant of retirement benefits, approved by the Chancellor, vide Letter No.BSU-52/80-5285/GS (I), dated 18/21.11.1980), as amended by letter No.BSU-52/80-2158/G.S.(i), dated 25.11.1982 (in force with 14.11.1980), it is hereby provided that all the employees to whom these Statutes apply and who joined service of the University/constituent colleges before 1st April, 1978 and are still in service or have retired and provided with fresh option after the cut off date fixed in earlier statutes and have already given their option to the University shall be given the benefits of scheme set out in Appendix-A of the retirement benefits statutes:

Provided further that the University shall not provide fresh option henceforth in any case otherwise the expenditure so incurred as a result thereof, shall

be realised from the concerned persons as a public demand under the provisions of the Public Demands Recovery Act, 1914.

This amendment will also be applicable to the newly created or carved out Universities of Bihar, such as J.P. University, Chapra/B.N.Mandal University, Madhepura/Veer Kunwar Singh University, Ara/Maulana Mazharul Haque Arabic & Persian University, Patna.”

From reading of this, it becomes clear that the first paragraph has virtually legalized all the options or changes of option which have taken place up to the date of amendment. It is only the proviso, which has brought about a prohibition against a change of option, subsequent to the date of the introduction of Article 4 B. Nowhere in the Article of Proviso, any indication is given to the effect that the options that have been exercised by the respondents would stand cancelled or otherwise affected.

We totally agree with the view taken by the learned Single Judge and do not find any merit in this Letters Patent Appeals. Accordingly, these Letters Patent Appeals are dismissed.

LPA No.875 of 2014 is filed by the petitioners in CWJC No.16404 of 2007 against the order dated 15.03.2013 passed therein.

His grievance was about non-payment of pension for a particular period. The learned Single Judge took note of the fact that delay, if at all, had occurred only on account of the change of option by the appellant and his being inconsistent.

We are not inclined to interfere with finding recorded by the learned Single Judge in this regard. Accordingly, this Letters Patent Appeal is dismissed.

Interlocutory applications, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Gopal Prasad, J)

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