

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18600 of 2012

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Yubraj Prasad Yadav, Son of Late Garbhoo Prasad Yadav, Resident of Madhepura, P.S.- Madheopura, District- Madhepura, a Retired Reader, Department of English, T.P. College, Madhepura and Ex-Dean, Students' Welfare, B.N. Mandal University, Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Higher Education, Government of Bihar, Patna.
3. The Deputy Secretary, High Education, Government of Bihar, Patna.
4. The Vice Chancellor, B.N. Mandal University, Madhepura, District- Madhepura.
5. The Registrar, B.N. Mandal University, Madhepura, District- Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pranav Kumar, Advocate.
For the B.N.M. University	:	Mr. Mithilesh Kumar Rai, Advocate.
For the State	:	Mr. Sanjay Prasad, A.C. to A.A.G. 6.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 09-10-2015

Heard learned counsel for the parties.

The petitioner has moved this Court challenging the order dated 29.07.2004 passed by the Vice Chancellor of the University and also letter no. 2005 dated 30.11.1999 of the State Government by which the service rendered by him under the State Government in T. P. Collegiate School, Madhepura has not been taken into account for computation of pensionary and other retirement benefits by the University.

Learned counsel for the petitioner submits that as per Section 5 (ii) of the "Statutes For The Grant of Retiral Benefits



to Employees of the Bihar/Ranchi/Bhagalpur/Magadh/L.N.Mithila/K.S.D. Sanskrit University”, duly approved by the Chancellor on 18.11.1980 and amended on 25.11.1982, the petitioner having entered the service of the University after resigning from the post of teacher in T. P. Collegiate School, Madhepura under the Government of Bihar is entitled for his post retiral benefits to be counted taking into consideration the service rendered under the T. P. Collegiate School, Madhepura also.

Learned counsel for the respondents on the other hand submit that as per the plain and simple language of the provision of the Statutes noted above, only those Government employees who upon being transferred, resigned or retired from Government service and have been absorbed in the service of the University without any break, shall be entitled to pension and gratuity from the University on the basis of their total qualifying service rendered under the Government and the University. It is submitted that in the present case the petitioner was appointed in the University, under notification dated 22.04.1977 on the recommendation of the Bihar Public Service Commission and the said being a substantive and de novo appointment, the petitioner is not entitled to his past service rendered under the State Government in T. P. Collegiate School, Madhepura being counted. Learned counsel submits that the appointment under the University being a fresh one, the petitioner cannot be considered to be a transferred Government servant irrespective of the fact that he

resigned from such service consequent upon his appointment in the University. It is also submitted that the present is not a case of absorption in the service of the University.

Upon considering the facts and circumstances of the case and submissions of leaned counsel for the parties, the Court finds substance in the contention of learned counsel for the respondents. The benefit of Section 5 (ii) of the aforesaid Statutes relating to pension cannot be extended to the petitioner as he is not covered by the conditions mentioned therein for the simple reason that he was appointed afresh in the University in the year 1977, pursuant to recommendation from the Bihar Public Service Commission.

In view of the aforesaid, the Court does not find any ground to interfere in the matter and accordingly, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J.)

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