

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No. 12868 of 2015**

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Dr. Naw Kant Thakur, Son of Late Pt. Kamlakant Thakur, Resident of Uda Kishunganj, (Murali Tola) Ward No. 14, District Madhepura.

.... .... Petitioner/s

Versus

1. Bhupendra Narayan Mandal University, Madhepura through its Registrar.
2. Vice Chancellor, Bhupendra Narayan Mandal University, Madhepura.
3. The Registrar, Bhupendra Narayan Mandal University, Madhepura.
4. The State of Bihar through the Principal Secretary, Deptt. of Education, Govt. of Bihar, Patna.
5. The L.N. Mithila University, Darbhanga through its Registrar.

.... .... Respondent/s

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**Appearance :**

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|-----------------------------------|---|------------------------------------------|
| For the Petitioner/s              | : | Mr. Pramod Mishra, Advocate.             |
| For the State                     | : | Mr. Md. Nasrul Hoda Khan, S.C.18         |
|                                   |   | Mr. Md. Harun Quareshi, A.C. to S.C. 18. |
| For the B. N. Mandal University : |   | Mr. Shashi Bhushan Singh, Advocate.      |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date: 15-03-2016**

Heard learned counsel for the parties.

The petitioner has moved the Court for a direction  
for payment of his retiral dues including pension.

The brief facts of the case are that the petitioner entered service as a Lecturer in the Department of Maithili, H.S. College, Uda Kishunganj on 20.11.1975. Later, on 22.01.1983, his service was absorbed by approval of the Chancellor of the University vide Memo No. 561-634 issued under the signature of the Registrar of L.N. Mithila University, Darbhanga. On 15.11.2016, upon bifurcation of the L.N. Mithila University, Darbhanga, the petitioner, who came under the B.N. Mandal University, was promoted to the post of Reader under the Time Bound Scheme on 15.11.2006 under order issued by the Registrar

of B.N. Mandal University, Madhepura. The said promotion was with effect from 21.01.1993. The petitioner superannuated on 31.08.2014.

Learned counsel for the petitioner submits that after his superannuation he was also issued a 'No Objection Certificate' by the Principal of the college concerned but still his post retiral dues including pension have not been paid.

Learned counsel for the State submits that from the verification made by the authorities it transpired that the petitioner was working on a non existing post. However, he is not in a position to controvert the fact that the petitioner was paid from Government fund and that upon absorption was also promoted.

Learned counsel for the University submits that when the pension papers of the petitioner were submitted before the University, the State Auditor had raised the objection regarding non sanction of the post on which the petitioner was working.

Learned counsel for the petitioner, by way of reply submits that the authorities never objected to the petitioner working and made payment to him from Government fund and also promoted him and even during the entire period, no show cause was issued to him nor his service terminated, the authorities now cannot turn back and raise the bogey of the petitioner having worked on a non existing post.

Learned counsel submits that under similar circumstances a coordinate Bench of this Court had directed for payment of Family Pension, Group Insurance and other post retiral benefits to the writ petitioner in the case of **Ranju Devi v. State of Bihar** reported in **1999(3) PLJR 504**.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the submissions of learned counsel for the petitioner. The petitioner having entered service, which was duly regularized by the University and thereafter he was also promoted and him being paid from Government funds without there being any objection raised from any quarter during his entire service period, subsequent to his retirement, the respondents, both the State and the University, cannot take the plea that the petitioner had worked on a non existing post. Even such contention is not very specific for the reason that the objection of the State Auditor which has been forwarded by the University to the State also mentioned about the non affiliation of the Department of Maithili of the said college but nowhere it is with regard to whether the post on which the petitioner was working was sanctioned or whether there was any defect in the appointment and subsequent regularization of the service of the petitioner. This being the case, the Court is of the considered opinion that the petitioner is entitled to his post retiral benefits including pension moreso in view of the law laid down by the Court in the case of **Ranju Devi**

(supra).

Accordingly, the writ petition stands disposed off with a direction to the respondent no. 3 to pay all the retiral benefits to the petitioner including pension within four weeks from the date of production of a copy of the order before him.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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