

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.317 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 586 of 2011**

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1. Ram Bishesh Singh.
 2. Shashi Bhushan Kumar.
- Both Sons of Late Ram Sanjivan Sinha, Resident of Village - Morsand, P.S.
Runni Saidpur, Distt. – Sitamarhi.

.... Petitioners-Appellants

Versus

1. Patna University, Ashok Raj Path, Patna through its Registrar
2. The Vice Chancellor, Patna University, Ashok Raj Path, Patna
3. The Registrar, Patna University, Ashok Raj Path, Patna
4. The Finance Officer, Patna University, Ashok Raj Path, Patna

.... Respondent/s

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Appearance :

For the Appellants : Mr. V. R. P. Singh, Advocate
For the Respondents : Mr. Ashok Kumar Keshari, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 26-07-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 27th of April, 2012 whereby, the writ application filed by the appellants claiming higher pay scale payable to their father, who attained the age of superannuation on 31st of January, 1987, was dismissed.

2. We find the present is a case which shows gross abuse of the process of law. The father of the appellants attained the age of superannuation on 31st January, 1987 and died on 16th of September, 2003. No claim of an incorrect grant of pay was raised by



the father of the appellants during his life time. The appellants filed a writ application before this Court which was taken up for hearing along with other numerous analogous cases filed by the teaching and non teaching employees where, the claim was for payment of retiral dues in the revised scale which they were drawing on the date of their retirement. The payment was not being made due to paucity of fund. The learned Single Bench disposed of the writ applications. The order passed by the writ Court reads as under:

“Heard.

Petitioners in each of the case is the retired teaching/non-teaching employee of the Patna University. From the counter affidavit filed by the University in each of the case it does not appear that there is any dispute regarding the entitlement of the petitioners for payment of their retiral dues in the revised scale which they were drawing on the date of their retirement except paucity of fund at the hands of the University.

In the circumstances, I direct the respondent Patna University to pay to each of the petitioner the retiral dues together with arrears of salary in the revised scale which should include pension, gratuity, leave encashment and any other retiral dues which has not yet been paid as early as possible in any case within a period of three months from the date of receipt/production of a copy of this order together with calculation-chart for each of the payment. It is made clear that if any of the petitioners has any other grievance which has not been taken into account in this order then he shall be at liberty to represent before the Vice Chancellor of the University as also to question the calculation given in the chart furnished to each of the petitioner at the time of the payment in terms of this order. The Vice Chancellor shall be obliged to dispose of the representation as early as possible in any case within a period of 30 days from the date of its receipt.

For payment of statutory interest, petitioners shall be at liberty to represent before the Vice Chancellor and if those interests are statutorily admissible then the Vice Chancellor should consider request for such payment favourably.

It is further made clear that in terms of the provisions of the Patna University Act, in the event there is paucity of fund with the University then the same has to be taken care of by the State Government and in the circumstances, the State respondents are directed to respect the requisition received from the University for release of fund.

All these writ applications are, accordingly, disposed of.

3. A perusal of the order does not show that the appellants pointed out that their father has since died and has been paid retiral dues during his life time. On the basis of the representation, the Vice Chancellor passed an order on 23rd of June, 2009 to the effect that the University has fixed the pay of the father of the appellants as per the direction of the State Government and the pay fixation earlier done by the University is correct. The appellants also filed a contempt application before this Court which was disposed of with a liberty to the appellants to challenge the order passed on the representation of the appellants. It is thereafter, the writ application filed by the appellants was dismissed by the learned Single Bench.

4. In the counter affidavit, the stand of the respondents is that the pay of the father of the appellants was correctly fixed with effect from 01st of January, 1986.



5. As observed earlier, the present is a case of the abuse of the process of law and misrepresentation. If the father of the appellants had any grievance, he could have invoked the jurisdiction of this Court during his life time. He survived for almost 16 years after his retirement. No grievance in respect of either the pay scale or the pension was made by the father of the appellants during his life time for 16 years. Suddenly, in 2005, the appellants woke up to raise a claim along with other teaching and non-teaching employees. The grievance of other employees was non-payment of retiral benefits, which was not the assertion of the appellants. The appellants relied upon an order which was passed assuming that the retiral dues have not been paid to the employees, including the father of the appellants.

6. We find that invocation of the jurisdiction of this Court in the year 2005 and subsequently of the contempt petition and then again the writ application against the order passed by the University and then this Letters Patent Appeal is at the cost of public time. The numerous litigations initiated by the appellants are at the cost of other deserving cases which could have been taken up and decided in lieu of the time taken by the appellants.

7. In view of the abuse of the process of law by initiating multiple proceedings before this Court, the present appeal is dismissed with a cost of Rs.10,000/- (Rupees ten thousand) to be

deposited with the Patna High Court Middle Income Group Legal Aid Society within two months.

8. At this stage, the learned counsel for the appellants wishes to withdraw the present Letters Patent Appeal. We find that having usurped the public time, we do not find that at this stage, the appellants can be permitted to withdraw the present Letters Patent Appeal. The request to withdraw the appeal is declined.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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