

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16785 of 2015

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Shivnath Thakur son of Late Shukhlal Thakur, Resident of Mohalla- Balai Campus,
Chhota Chowk, Muzaffarpur, P.S.- Kazimohammadpur, Distt.- Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary HRD, Govt. of Bihar, Patna
2. The BRA Bihar University through its Registrar, having office at Muzaffarpur
3. The Vice Chancellor, BRA Bihar University, Muzaffarpur
4. The Finance Officer, BRA Bihar University, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sri Niwas Jha, Advocate
For the State : Mr. Rakesh Prabhat, AC to SC-21
For BRAB University : Mr. Rakesh Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 22-12-2016

By way of this writ application, the petitioner has
prayed for a direction to the respondents to grant commutation of
pension.

2. Learned counsel for the petitioner has
submitted that the petitioner was initially appointed as
Demonstrator in the Department of Chemistry at L. S. College,
Muzaffarpur on 29.03.1972. Later on, he was promoted to the post
of Lecturer on 8.12.1980 and further, he was promoted to the post



of Reader in the Department of Chemistry of Bhim Rao Ambedkar Bihar University (for short 'University') on 08.12.1990. He retired from service on attaining the age of superannuation on 31.08.2014 after rendering his services for more than 43 years. He has further submitted that after retirement, the petitioner filed a representation on 23.01.2015 for grant of commutation of pension but the same is not being allowed by the respondents and, hence, the necessity arose for filing the present writ application.

3. On the other hand, learned counsel for the University submits that though commutation scheme is applicable in the University and the petitioner is entitled to commutation of his pension but the same is not being allowed because of non-release of grant by the State Government in this head.

4. The stand of the University has been countered by the State by filing counter-affidavit wherein it has categorically been stated that the State in Education Department is regularly releasing grant-in-aid to the Universities for making payment of salary as well as retiral benefits to its employees who have been working in legal and valid manner.

5. Learned counsel for the State has contended that it is for the Universities to disburse its amount to its employees in accordance with law. He has contended that apart from making



regular grant to the Universities, additional grants are also being released by the State Government for meeting expenditure on account of post-retiral dues.

6. I have heard learned counsel for the parties and perused the record.

7. There is no dispute that the petitioner is entitled to commutation of his pension as he was working in the University under different capacities in legal and valid manner for over four decades. The University cannot deny the benefits under the scheme to the petitioner on the ground of paucity of fund especially when the specific stand on behalf of the State is that it is regularly releasing grant-in-aid and additional grants to the Universities for making payment of retiral dues of its employees who have been working in legal and valid manner and the petitioner did apply for commutation of pension within five months of his retirement on superannuation for commutation of pension.

8. Keeping in mind the submissions made on behalf of the parties, this Court is of the considered opinion that the petitioner is entitled to receive the commuted portion of his pension. Accordingly, I direct respondents no. 2 and 3 to release payment of amount in lieu of commuted portion of pension surrendered by the petitioner voluntarily as early as possible but not



later than three months from today. In case, payment of amount in lieu of commuted portion of pension is not made to the petitioner within the aforesaid period, the respondents shall be liable to pay a cost of Rs.50,000/- to the petitioner and the amount of cost should be realized from the salary of respondents no. 2 and 3 in equal proportion.

9. With the aforesaid observations and directions, the writ application stands allowed.

10. Let a copy of the order be transmitted to the Vice-Chancellor and the Registrar of the University forthwith.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	...
Uploading Date	23.12.2016
Transmission Date	

