

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15951 of 2016

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Shambhu Sharan Sharma, Son of late Adya Prasad Singh, resident of Village-
Manjhaul, P.S.- Cheriya Bariyarpur, District- Begusarai, retired as Re-designated
Demonstrator of R.C.S. College, Manjhaul, Begusarai. Petitioner
Versus

1. The State of Bihar.
 2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
 3. The Vice-Chancellor, L.N. Mithila University, Darbhanga.
 4. The Registrar, L.N. Mithila University, Darbhanga.
 5. The Finance Officer, L.N. Mithila University, Darbhanga.
 6. The Principal, R.C.S. College Manjhaul, District- Begusarai.
- Respondents

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Appearance :

For the Petitioner : Mr. Shashi Bhushan Singh, Advocate
For the Respondent-State: Mr. Ram Vinay Prasad Singh, AC to GA-XII
For the Respondent-University: Mr. Ajay Bihari Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 03-02-2017

The present writ application has been filed by the
petitioner for directing the respondents to fix the pension of the
petitioner in the pay scale of Rs.9300-34800 with grade pay of
Rs.4200/- and pay the following dues:-

- (i) Difference of pension for the period of
01.08.2009 till date.
- (ii) difference of gratuity at enhanced rate i.e. upper
limit of Rs.10,00,000/-
- (iii) Sanction of earn leave of 300 days and payment
of difference.

2. It is contended by the learned counsel for the
petitioner that the petitioner was appointed as Lab Incharge in R.C.S.
College, Manjhaul on 1st of September, 1978. He retired on 31st July,



2009 from the post of re-designated Demonstrator. He submitted that due to inaction on the part of the university, the petitioner has been paid part of the amount of his retiral benefits and certain amount of pension arrear, gratuity, leave encashment are due to be paid. He submitted that in this regard the petitioner has submitted several representations before the respondent authorities, but no heed has been paid to his grievances.

3. A counter affidavit has been filed on behalf of Lalit Narain Mithila University, Darbhanga, wherein, it has been admitted that a sum of Rs. 2,43,016/- under the head arrear of revised pension, a sum of Rs.57,792/- under the head leave encashment, a sum of Rs.54,403/- under the head gratuity and a sum of Rs.4,89,032/- under the head arrear of salary has been found payable to the petitioner for which requisition has been made to the State, but due to paucity of fund the payment could not be made to the petitioner.

4. Mr. Ajay Bihari Sinha, learned counsel for the University submitted that the University has made requisition to the State for release of Rs.50 crores for making payment to the retired employees, but the State has not released the fund as a result of which the University is unable to make payment of even admitted retiral dues.



5. Learned counsel for the State would submit that the university is being paid grant-in-aid every year and the State is not at fault. He submitted that the responsibility to pay salary and retirement benefits to the employees of the university is upon the university and the State can not be blamed for any fault on the part of the university in not releasing the pensionary benefits to its employees.

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

7. The petitioner has retired on 31st July, 2009. It is unfortunate that the salary and retiral dues of the petitioner have not been paid to him even after seven years of his retirement. Neither the State nor the University can take a plea of paucity of fund for not paying its employees the retiral dues.

8. In ***Dr. Uma Agrawal v. State of U.P. and Another [(1999) 3 SCC 438]***, the Supreme Court held as under:-

“...Pension is not a bounty but right of a government servant. Government is obliged to follow rules. Delay in settling retiral benefits is frustrating and must be avoided at all costs. ...”

9. In ***Vijay L. Mehrotra v. State of U.P. and Others [(2001) 9 SCC 687]***, it has been held by the Supreme Court that all the payment of retiral benefits should be paid on the date of



retirement or soon thereafter.

10. What appears from the counter affidavit filed on behalf of the University is that though part payments were made to the petitioner after his retirement under different heads, the full and final payment of retiral dues were not paid to him. He was not paid even salary for certain period. The inordinate and unexplained delay of seven years in payment of admitted dues to the petitioner is highly illegal and arbitrary.

11. Considering the facts and circumstances of the case, I direct the respondents-University to pay all the admitted dues to the petitioner within eight weeks from the date of receipt/production of a copy of the order, failing which the petitioner would be entitled to receive interest at the rate of 8% per annum from the date the amount became due till the date of its actual payment.

12. With the aforesaid observations and direction, the writ application is disposed of.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.02.2017
Transmission Date	NA

