

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1856 of 2011
IN
Civil Writ Jurisdiction Case No. 14541 of 2005**

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Phuleshwar Chaudhary S/O Late Banbari Prasad Chaudhary R/O Village- Kajha,
P.S.- K. Nagar, District- Purnea

.... Appellant/s

Versus

1. The State Of Bihar Through The Secretary, Higher Education, Government Of Bihar, New Secretariat, Patna
2. The Vice Chancellor, Lalit Narain Mithila University, Darbhanga
3. The Registrar, Lalit Narain Mithila University, Darbhanga
4. The Vice Chancellor, B.N. Mandal University, Lalu Nagar, Madhepura
5. The Registrar, B.N. Mandal University, Lalu Nagar, Madhepura
6. The Principal, Purnea College, Purnea

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Vijay Kumar Singh
For the State : Mrs. Archana Sinha, AC to GP 25
For B N Mandal University : Mr. Ritesh Kumar

For L N Mithila University : Mr. Chandra Mohan

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 03-10-2017

Seeking exception to an order dated 16.08.2010 passed by
the learned Writ Court in CWJC No. 14541 of 2005 this appeal has
been filed under Clause 10 of the Letters Patent.

Claiming pay fixation and grant of post-retiral benefits in
the scale of Rs.2000-3800, i.e. pay scale fixed for Librarian, the writ
petition in question was filed and the writ petition having been
dismissed this appeal.



Way back on 19.08.1950, the petitioner claims to have been appointed as Librarian in Purnea College, Purnea, then a private institute managed by a Managing Committee. In the year 1992, petitioner retired on attaining the age of superannuation. Thereafter, in the year 2005 he filed the writ petition claiming the pay scale in question which was enforced with effect from 01.01.1986. It was the case of the petitioner that he was appointed as Librarian by a private institute. When the institute was taken over by the Government in the year 1975 he was working as Librarian and, therefore, he was entitled to the pay scale recommended to a Librarian when the 5th Pay Commission's recommendations were made in the year 1986.

The learned Writ Court examined the matter and found that the petitioner in the writ petition comes out with a case that even though he was functioning on the post of Librarian in the year 1950 he was promoted as U.D.C. in the year 1983 in the then pay scale of Rs.880-1510. The pay scale of U.D.C. was more than that of a Librarian. The petitioner continued to work and retired in the year 1992 and raised a claim in the year 2005. Finding the petitioner's claim unsustainable the claim was rejected.

We also find from the records that it is only in the year 1975 that the petitioner obtained a qualification and degree in Library Science and from the counter affidavit filed by the University it is also



clear that he does not fulfill the norms required for being appointed as a Librarian in the pay scale in question after the recommendation were made by the Pay Commission. Taking note of all these circumstances, we see no reason to make any indulgence in the matter.

The appellant stood satisfied by working on the post of U.D.C., getting pay scale of U.D.C., retired in the year 1992 and got all his claims settled in the manner done by the University and it was in the year 2005 that he wanted to seek the benefits of Pay Commission's recommendation that also when he does not fulfill the qualification and requirement prescribed in the recommendation by the Commission to be granted to a Librarian.

Accordingly, finding no case made out for interference this appeal is dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl

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