

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17354 of 2015

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Krishna Kant Sharma Son of Late Shivjee Sharma, resident of Mohalla - Ganipur,
P.O. - Ramna, P.S. Kazi Mohammadpur, District - Muzaffarpur, the retired
Cartographer / Demonstrator, Department of Geography, B.R.A. Bihar University,
Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The Director, Higher Education, Education Department, Government of Bihar,
Patna.
3. The Joint Secretary, Higher Education, Education Department, Government of
Bihar, Patna.
4. The Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur through
the Vice Chancellor.
5. The Vice Chancellor, Baba Saheb Bhim Rao Ambedkar Bihar University,
Muzaffarpur.
6. The Registrar, Baba Saheb Bhim Rao Ambedkar Bihar University,
Muzaffarpur.
7. The Finance Officer, Baba Saheb Bhim Rao Ambedkar Bihar University,
Muzaffarpur.
8. The Head of Department of Geography, B.R.A. Bihar University, Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh, Advocate
For the State : Mr. Arun Kumar Bhagat, AC to AAG-XII
For the University : Mr. Dhruv Mukarji, Sr. Advocate
Mr. Samir Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 14-02-2017



Pursuant to the order dated 07.02.2017, the Vice-Chancellor, the Registrar and the Finance Officer of Baba Saheb Bhim Rao Ambedkar Bihar University (for short 'University') have appeared before the Court. Separate set of counter-affidavits have also been filed on their behalf.

2. In the present writ petitioner, the petitioner has prayed for a direction to be issued to the respondents to pay his retiral benefits like, gratuity, pension, leave encashment, group insurance and general provident fund.

3. The contention of the petitioner is that he was appointed as Cartographer in the Department of Geography in the University on 04.10.1983. After serving for nearly 32 years, he retired on attaining the age of superannuation from the post on 31.03.2015.

4. It is contended by the learned counsel for the petitioner that the petitioner submitted pension papers and other relevant documents in prescribed form for payment of pension, gratuity, leave encashment, group insurance, general provident fund etc. immediately after retirement, but except the regular pension, no payment of other retiral dues was made to him by the respondent-University.

5. Learned counsel for the University has drawn



my attention towards the statements made in the counter-affidavits filed today on behalf of respondent nos. 5 to 7 wherein the stand of the University is that the pension of the petitioner has already been commenced from 01.04.2015 and the current pension amount is being paid to him. The payment of arrears of pension till May, 2016 has also been made to the petitioner. It is further stated that the payment of group insurance and GPF have already been made to the petitioner and payment of gratuity and leave encashment would be made immediately after receipt of grant from the State Government.

6. Mr. Dhruv Mukarji, learned Senior Counsel for the University submitted that due to paucity of fund, the payment of gratuity and leave encashment would not be made to the petitioner. He submitted that the moment, the University would receive the fund from the Government, the grievances of the petitioner in respect of gratuity and leave encashment would be redressed without any delay.

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

8. In view of the stand taken by the University, it stands admitted that though the petitioner retired on attaining the age of superannuation on 31.03.2015, the University has failed to



pay him amount of gratuity and leave encashment. It would be pertinent to note here that the State in its counter-affidavit has made a categorical statement that in the financial year 2015-16, an amount of Rs.152,29,36,326/- has been sanctioned and given to the Universities for payment of dues salary, gratuity and pension etc. The stand of the State is that it is for the University to look into the matter and make admissible payment of retiral dues to its employees after verification of records.

9. Pension is a periodic payment to an employee, who has completed qualifying service of prescribed duration. It is not a bounty payable on the sweet will and pleasure of the University. The paucity of fund can not be taken as a ground for not paying the admitted dues to the petitioner. The statutory obligation cannot be defeated on such frivolous grounds.

10. In that view of the matter, I direct the respondent nos. 4 to 7 to pay the admitted post retiral dues of gratuity and earned leave to the petitioner within four months from today.

11. In case the respondents fail to make payment to the petitioner under the aforesaid heads within the time stipulated hereinabove, they are directed not to withdraw their salary till the actual payment is made to the petitioner. Since the order is being



passed in presence of respondent nos. 4 to 7, no representation is required to be filed by the petitioner before them.

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

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	...
Uploading Date	16.02.2017
Transmission Date	

