

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9062 of 2015

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Dr. Shiva Kant Jha son of Late Shakti Nath Jha, retired Reader in the Department of Maithali L.N.M.S., College Birpur (Supaul) residing at Birpur, P.O. - Birpur, District - Supaul.

.... Petitioner/s

Versus

1. The B.N. Mandal University, Madhepura through the Registrar of the University.
2. The Vice-Chancellor, B.N. Mandal University, Madhepura.
3. The Registrar, B.N. Mandal University, Madhepura.
4. The L.N. Mithila University, Darbhanga through the Registrar of the University.
5. The Vice-Chancellor, L.N. Mithila University, Darbhanga.
6. The State of Bihar through the Principal Secretary, HRD Department, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raghav Prasad No.1, Advocate
For the L.N.Mithila University : Ajay Bihari Sinha, Advocate
For the B.N.Mandal University : Mithilesh Kumar Rai, Advocate
For the State : Mr. Aditya Nath Jha, A.C. to S.C.-18

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 23-08-2017

Heard learned counsel for the petitioner, learned counsel for the B.N.Mandal University, Madhepura, learned counsel for the L.N.Mithila University, Darbhanga and learned counsel for the State.

2. The petitioner was working as a Reader in the Department of Maithili at L.N.M.S. College, Birpur. He superannuated on 31.10.2014. The writ petition has been filed by him for directing the respondents to pay his retrial dues.

3. It has been submitted by the learned counsel for the petitioner that, during the pendency of the writ petition, the other



retiral benefits of the petitioner have been paid, but the respondents have not paid gratuity and leave encashment to the petitioner.

4. A counter affidavit has been filed on behalf of respondents no.1 to 3 in which it has been stated that the claim of gratuity and leave encashment of the petitioner has not been sanctioned due to non-availability of fund in this regard. Learned counsel for the B.N.Mandal University has submitted that the amount of gratuity and leave encashment will be paid to the petitioner immediately after grant is received in this regard from the Government.

5. On the other hand, learned counsel for the State has submitted that the State has released adequate fund to the universities of the State for payment of retiral dues of teaching and non-teaching staffs working on sanctioned post.

6. I have heard the parties and perused the record.

7. Paucity of fund cannot be taken as a ground for not paying the admitted retiral dues of the petitioner. There is no dispute to the fact that the petitioner served the University and superannuated long back on 31.10.2014.

8. In that view of the matter, the action of the respondents in withholding payment of gratuity and leave encashment is wholly illegal and arbitrary.



9. Accordingly, the writ petition is disposed of with a direction to the respondents no.2 and 3 to pay the amount of gratuity and leave encashment to the petitioner within a period of two months from today. In case the payment is not released within two months from today, the petitioner would be entitled to receive interest at the rate of eight per cent per annum over the due amount from the date the amount became due till the date of actual payment.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	31.08.2017
Transmission Date	

