

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1004 of 2016

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Satya Narain Pd. Gupta, S/o Chhedi Lal Sah, R/o Mohalla - Kachchi Pakki
Road, Atardah, P.S. - Sadar, District - Muzaffarpur.

.... Petitioner

Versus

1. The BRA, B. U. Muzaffarpur, through the Registrar of the University.
2. The Vice-Chancellor BRA, B.U. Muzaffarpur.
3. The Registrar, BRA, B.U. Muzaffarpur.
4. The State of Bihar through the Principal Secretary, Department of Education, Bihar, Patna.
5. The Director, Higher Education, Bihar, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Raghav Prasad No.-1, Advocate
For the University : Mr. Rakesh Kumar Singh, Advocate
For the State : Mr. K.P. Gupta, G.P. 10

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

4 06-10-2017 Learned counsel for the petitioner is permitted to add the

Director, Higher Education, Bihar, Patna as party respondent No.5

to this application in the course of the day.

Heard learned counsel for the petitioner, learned counsel

for the University and learned counsel for the State.

Main grievance of the petitioner in this writ application is

that he rendered his service as a Teacher of University for the

period of 39 years but the University has counted 31 years of

service.

Mr. Raghav Prasad, learned counsel for the petitioner

submits that the petitioner was appointed way back in 1969 and



his service was concurred by the University Service Commission on 9.2.1972. He continued in the service of the University right from the date of initial appointment since 1.8.1969 and, as such, he rendered 39 years of service.

From the perusal of the counter affidavit of the respondent State it appears that the State Government has shifted the responsibility of deciding the issue raised in the writ application on the University and has stated in paragraph-6 of the counter affidavit as follows :

“That it is stated and submitted that the University being the custodians of records of its employees is competent to answer the statements made in the writ petition as well as on the facts of the case.”

The University in the instant case has filed a counter affidavit and in paragraph-7 a statement has been made that remaining amount of unpaid post retiral dues would be paid on receipt of funds from the State Government.

Petitioner retired on 30.6.2008 and we are in the year 2017. The correspondences between the University and the State for the last nine years are not enough which is indicative of the attitude of the State Government and the University towards the claim of the retired employee. The State Government has been showed guidelines for expeditious disposal of the pensionary



claim of the retired employees but on the contrary they are delaying the matter.

The writ application was filed on 14.1.2016 and incomplete affidavits have been filed by the State and the University. Under the compelling circumstances, this Court is left with no option but to direct the Director, Higher Education, Bihar, Patna (respondent No.5), to decide the issue as to entitlement of pensionary benefits counting service of the petitioner with effect from the date of his initial appointment, in the light of judgment of this Court in the case of **Nawal Kishore Sharma vs. State of Bihar :2017(3) PLJR 38**, whereby the issue has already been decided as to the entitlement of counting of service from the date of initial appointment on account of regularization in terms of the Regularisation Statute. Such exercise must be completed within a period of three months from the receipt of a copy of this order. It is needless to state here that the Director, Higher Education is under obligation to see that all admissible dues are paid to the petitioner at the earliest, preferably within a period of three months from the decision of the claim of the petitioner. Registrar of the University (respondent No.3) is obliged to provide all the materials/records in connection with the service of the petitioner to the Director, Higher Education, who will not only decide the issue



but also ensure that lawful payments are made to the petitioner within the time stipulated hereinabove. If payments are not made within the time prescribed, the arrears will carry interest at the rate of 9% per annum from the date of retirement till the date of actual payment and the same shall be borne out from the pocket of the erring officers of the State and the University.

With the above observation, this application is disposed of.

(Anil Kumar Upadhyay, J)

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