IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1354 of 2013
IN
Civil Writ Jurisdiction Case No. 3712 of 2012

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1. The Tilka Manjhi Bhagalpur University through the Registrar
2. The Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur
3. The Financial Advisor, T.M. Bhagalpur University, Bhagalpur
4. The Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur
5. The Finance Officer T.M. Bhagalpur University Bhagalpur

.... Appellants

Versus

1. Braj Mohan Sharma S/O Late Pannalal Sharma Resident Of Rahimpur Kothi, Gandhi Nagar, Khagaria, P.S. + District- Khagaria
2. The Principal, Mahila College Khagaria, District- Khagaria
3. The State Of Bihar Through The Principal Secretary, Human Resources Development Department, Government Of Bihar, New Secretariat, Patna
4. The Director, Department Of Higher Education, Govt. Of Bihar, Patna
5. The In-Charge, State Govt's Auditors Team Deputed at T.M. Bhagalpur University, Bhagalpur

.... Respondents

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Appearance :
For the Appellants : Mr. Rajendra Kumar Giri, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)
Date: 17-02-2017

I.A. No. 7710 of 2013 is allowed. Delay of 25 days is condoned. Matter is taken up on the merits.

The submission of the counsel for the University is a submission for the sake of submission. The issue as to what should be the cut off date for absorption of the private respondent is no longer arguable issue especially when the name of the private respondent did figure as one of the candidates in the recommendation and report of the Hon'ble Justice (Retd.) S.C. Agrawal and the said recommendation was approved by the Hon'ble Supreme Court.

After considering all the submissions and verifying the materials culled out from the writ application as well as the counter affidavit, a confusion sought to be raised by the counsel for the University, as to which category the private respondent belongs and what should have been his cut off date, stands answered in categorical terms fixing 02.04.1975 as the date of absorption and 28.02.1993 as the date of superannuation.

The present litigation, therefore, is not required to be encouraged any further keeping in mind that the private respondent has made out a case for direction in his favour for settlement of his post retirement benefit on the basis of his date of absorption and superannuation. The Court is not unmindful of the fact that 24 years had gone past since the private respondent has superannuated and he still has to litigate when there is no dispute as such. The dispute, if any, is creation of the authorities of the University.

There is no merit in the appeal. The same is dismissed. The learned single Judge's order dated 22.03.2013 does not suffer from any vice.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	NAFR
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