

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1183 of 2017

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Jagannath Jha, son of Late Badri Jha, Resident of Village-Jaideopatti, P.S.
Ghanshyampur, District-Darbhangha

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department, of Education,
Government of Bihar, Patna
2. Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar,
Darbhanga through its Registrar
3. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University,
Kameshwar Nagar, Darbhanga
4. Registrar, Kameshwar Singh, Darbhanga Sanskrit University, Kameshwar
Nagar, Darbhanga
5. The Principal Secretary, Laxmi Narayan Sanskrit College Jaideopatti, P.S.-
Ghanshyampur, District-Darbhangha.

.... Respondents

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Appearance :

For the Petitioner : Mr. Durga Nand Jha, Advocate
For the University : Mr. Gyanand Roy, Advocate
For the State : Mr. Abhayalli, AC to GA-12

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 23-02-2018

Heard learned counsel for the petitioner; State and
K.S.D. Sanskrit University (hereinafter referred to as the
“University”).

2. The petitioner has moved the Court for the
following reliefs :

“ (i) Issuance of a writ in the nature of
certiorari for quashing the order dated 07.09.2016
as communicated by the Registrar of the K.S.D.S.
University vide letter no. 1577/16 dated



08.09.2016 whereby and whereunder the pensionary benefits have been denied to petitioner merely on the ground that although service of petitioner has been regularized w.e.f. 10.08.1980 but payment of salary has been made from June 2003 till 31.08.2009 (the date of retirement which is not ten years).

(ii) Issuance of a consequential writ in the nature of Mandamus directing and commanding the Respondents to pay the full pension to the petitioner on the basis of last pay drawn in 6th Pay Revision Pay scale and other retiral benefits by reckoning the service of petitioner w.e.f. 10.08.1980 i.e. the date from which service of the petitioner has been recognized by the Government and Respondent university and thereby to pay the entire arrears with adequate amount of interest @ 18% per annum and suitable amount of compensation of which petitioner entitled to.

(iii) Issuance of an appropriate declaration and holding that since as per provision under statute, part II, section II, clause 14(1) the qualifying service period has been fixed which petitioner fulfils, there appears no justification to count the service only for the period, the petitioner has been paid particularly when the continuity of services of petitioner has been approved by the Respondents from the date of his



joining i.e. 10.08.1980 and till the date of retirement it comes to total about 29 years and thus the impugned order cannot be sustained.

(iv) Issuance of further declaration that while the representation of petitioner has finally been rejected by the Respondent Registrar vide order dated 07.09.2016 it has not been decided in terms of the observation of the Hon'ble Court passed vide order dated 13.05.2016 passed in CWJC No.22351 of 2014 nor the Registrar has considered the facts submitted by petitioner and thus the impugned order is wholly illegal, arbitrary, whimsical and non-application of mind.

(v) Any other relief or reliefs be granted to petitioner to which he is found to be entitled to.”

3. The issue was not required to come to Court as the regularization of the service of the petitioner was in terms of the approval granted by the State Government which is to accept the financial burden as a consequence of such regularization. The said regularization was in terms of letter no.1074 dated 05.06.2006 of the State Government informing that it had been approved from the date of joining; however, the period prior to such regularization would not be paid for and shall only be counted for continuity in service. It was further stated that actual payment shall be made from June, 2003. The University issued consequential order under Memo No.5784-



5829/2006 dated 10.08.2006 regularizing the services of many persons, including the petitioner, in terms of the approval granted by the State Government as per its letter dated 05.06.2006. The petitioner superannuated on 31.08.2009. The claim for pension has been rejected by the University on the ground that because actual payment has been allowed to him with effect from June, 2003, his length of service shall be counted only from that day and because he has completed only six years and two months of service, the same being less than the requirement of at least ten years of service did not entitle him to such pension. However, when the same was highlighted during the submissions advanced by learned counsel for the parties on 21.02.2018, learned counsel for the University had prayed for an adjournment to seek instructions.

4. Today, he submitted that the University accepts such position and, thus, the current pension shall start, i.e., from February, 2018 and with regard to arrears, which would be a substantial amount, requisites would be sent to the State Government and the matter would also be discussed in the meeting scheduled for 5th March, 2018.

5. In view thereof, the writ petition stands disposed off holding the petitioner entitled to pensionary benefits counting his period of length of service in terms of the Government order dated



05.06.2006, i.e., from the date of his joining till 31.08.2009. The University shall work out the figures and pay such dues expeditiously and latest within a period of four months from today.

6. Learned counsel for the State submitted that they have already directed that for continuity in service, the date of joining shall be counted and, thus, whatever is required to be paid to the petitioner in terms thereof, the same shall be released to the University along with the general grant in aid.

(Ahsanuddin Amanullah, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23-02-2018
Transmission Date	

