

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2882 of 2014

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Gauri Shanker Singh S/o Late Yamuna Singh, Resident of Village - Rampurhari,
P.S. Minapur, District – Muzaffarpur.

.... Petitioner/s

Versus

1. The B.R.A. Bihar University, through the Registrar of the University, Muzaffarpur.
2. The Vice - Chancellor, the B.R.A. Bihar University, Muzaffarpur.
3. The Registrar, the B.R.A. Bihar University, Muzaffarpur.
4. 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.
For the State	:	Mr. Madhukar Mishra, A.C. to S.C. 16
For the University	:	Mr. D. Mukherjee and Mr. Arup Kumar Chongdar, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 13-03-2018

Heard learned counsel for the petitioner; State and

B.R.A. Bihar University (hereinafter referred to as the ‘University’).

2. The petitioner has moved the Court for the following

relief:

“That this writ application is being filed for issuance of a writ in the nature of mandamus asking and commanding the respondents to pay to the petitioners Gratuity amount of Rs. 10 lakhs in stead of Rs. 3.50 Lakhs in the same way as has been made applicable to the officials of the Judicial Services of the State Government contained in Para-3(4) of the Resolution No.-14303 dated 22.12.2010 of Finance Department, Government of Bihar by setting aside the cut off date mentioned in Resolution No.-1674 dated 16.08.2012 and (Annexure-5) and Resolution No.-774 dated 27.05.2013 (Annexure-6) of the Finance Deptt.



Regarding enhancement of Gratuity to the maximum limit of Rs. 10 lakhs instead Rs. 3.50 lakhs.”

3. In sum and substance, the contention of the petitioner is that when the recommendation to enhance the amount of gratuity from Rs. 3.5 lakhs to 10 lakhs has been made effective from 01.01.2006 with regard to members of the judicial service, the same should not be denied to an employees of the University in whose case it has been made payable from 01.04.2007.

4. Learned counsel for the petitioner submitted that without there being a finding that the Bihar Judicial Service is superior to the other services, in the case of Government and University employees, where the payment of gratuity of Rs. 10 lakhs has been made effective from 01.04.2007, in the case of members of the Bihar Judicial Service, the same benefit being payable to them with effect from 01.01.2006 is unjustified and, thus, the Court may hold that even the petitioner, being a University employee should also get the benefit of Rs. 10 lakhs gratuity, though he superannuated on 31.01.2006. It was further submitted that the State has not come out with any notification that the Bihar Judicial Service was different and higher to the service under the State Government or the University and, thus, such distinction and differentiation is arbitrary.

5. Learned counsel for the State submitted that the State



had taken a decision to grant such benefit only with effect from 01.04.2007 to its employee but in view of the order passed by the Hon'ble Supreme Court, the matter has been reconsidered only with regard to the Bihar Judicial Service and a decision has been taken that such benefit would be granted with effect from 01.01.2006.

6. Having considered the matter, the Court does not find any merit in the writ application. The petitioner has not been able to point out any issue of discrimination for the simple reason that pension is only payable as per the policy of the employer. Different services cannot be equated to each other. Service under the State, University and Judicial Wings are different and separate from each other. This is one aspect of the matter. The other equally important aspect is that as per the policy of the State, benefits are payable including pensionary benefits. Gratuity being a post retiral benefit, has to be governed as per the scheme of the State. Moreover, in the present case, the scheme itself indicates that such decision in the case of members of the Bihar Judicial Service has been taken in view of the decision of the Hon'ble Supreme Court of India. Thus, when there is a positive judicial order in favour of any person or class of persons, the benefit flowing out of said judgment cannot be said to be either discriminatory or arbitrary. The Court has not been shown any material to indicate that such decision of the State Government is



not pursuant to the decision of the Hon’ble Supreme Court. Once a benefit is granted, pursuant to an order of the Court, grant of the same by way of implementation of the order cannot in any view be said to be discriminatory or unjustified or arbitrary.

7. Accordingly, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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