

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.2159 of 2016

In
Civil Writ Jurisdiction Case No.9783 of 2013

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The State of Bihar through the Principal Secretary, Education Department,
Bihar, Patna.

... .. Appellant/s

Versus

1. Birendra Kumar Gupta Son Of Late Shankar Lall Resident Of C/O Shankar Bhusnalaya, Bakarganj, District - Patna
2. Dr. Pawan Kumar Mishra Son Of Late Bindeshwar Mishra Resident Of Village + P.O. - Bishnupur Bathua, P.S. - Pusa, District - Samastipur
3. Salim Jawed Son Of Shri Seikh Mukhtar Miyan Resident Of Village - Paighamberpur, Post - Siwan, P.S. - Hussainganj, District - Siwan
4. Dr. Vani Bhushan Son Of Shri R.S.P. Chaudhary Resident Of Village - Manikpur, Mushahernia, P.O. - Andauli, P.S. - Parihar, District - Sitamarhi
5. Dr. Yogendra Kumar Verma Son Of Shri Baliram Prasad Resident Of Mohalla - Shiv Nagar, P.O. - Hilsa, P.S. - Hilsa, District - Nalanda
6. Shiv Shankar Singh Son Of Shri Narayan Prasad Singh Resident Of Village + P.O. - Amaon, P.S. - Chainpur, District - Kaimur
7. The Patna University, Patna Through Its Registrar
8. The Vice Chancellor, Patna University, Patna
9. The Registrar, Patna University, Patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. P.N.Shahi, AAG 6
Mr Vivek Prasad, GP 7

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 : 08-01-2018

There is a delay of 78 days in preferring the appeal. For the reasons indicated in the condonation application, delay is condoned. I.A. No.9077 of 2016 stands allowed. The matter is thereafter taken up on merits.



Heard learned Additional Advocate General No.6 representing the State of Bihar.

The judgment under challenge is dated 04.08.2016 passed by the learned Single Judge, who has allowed the writ application in favour of the petitioners/ private respondents, who happened to be employees of Patna University.

The issue raised in the present appeal is whether the learned Single Judge has committed an error by holding that the employees, who have been appointed after 01.09.2005 under the University, would be governed by the old Pension Scheme and not the new Contributory Pension Scheme. The stand taken before the learned Single Judge was that in terms of Section 36 (3) of the Patna University Act read with the statutes framed therein the Bihar Pension Rules are supposed to be applicable to the employees of the Patna University and in this regard attention of this Court has been drawn to clause 24 of procedural instruction regarding sanction and payment of retirement benefits admissible under the statutes for the grant of retirement benefit to the employees of Patna University, which reads as under:

“24. Subject to the provisions of the Retirement Benefit Statutes-



(a) the preceding rules will stand amended in event of any change(s) to the corresponding provisions (s) in the Bihar Pension Rules,

(b) the Bihar Pension Rules, will apply, as amended from time to time, in all matters not covered by the preceding Rules so far as procedure regarding grant/ payment of pension (s)/ gratuity is concerned

Having perused the above statute or the procedural instruction and having read clause 24 therein, the Court does not get persuaded by the line of argument that whatever changes are brought about in the Bihar Pension Rules, it will automatically bring about amendment either in the statute or the rules relating to University. No doubt, since all the liabilities and payments of employees of University is made by the State of Bihar and, therefore, there is an object and purpose behind harmonizing the Pension Rules with the statutory rules of the University employees but the Court is unable to appreciate as to how the changes will automatically be read into the provisions of the pension relating to the University in question.

The learned Single Judge has rightly taken a view that corresponding changes and amendments have to be brought about by the University in conformity with the Bihar Pension Rules and it cannot be an automatic kind of application to the amended provisions in the Bihar Pension Rules. In fact, instead of wasting



judicial time and energy on this litigation, the University is free to bring about changes even now. No interference is warranted with the order impugned of the learned Single Judge.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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