

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16296 of 2017

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Arwind Kumar Singh Son of late Sahajanand Singh Resident of Vilage- Rahimpur,
Police Station- Khagaria, District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, New Secretariat, Vikash Bhawan, Baily Road, Patna.
2. The Vice-Chancellor, Kameshwar Singh Darhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
3. The Registrar, Kameshwar Singh Darhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
4. The Principal , Awadh Bihari Sanskrit Mahavidyalay, Rahimpur, Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 16-05-2018

Heard learned counsel for the petitioner; State and Kameshwar Singh Darbhanga Sanskrit University (hereinafter referred to as the 'University').

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

“That, this is an application for issuance of an appropriate writ in the nature of mandamus commanding the respondents to pay the retiral



entitlements i.e. pension, Provident Fund, GIS, gratuity and leave encashment and with all consequential benefits including statutory/compoundable interest at applicable rate and also further a direction to grant all other consequential benefits in terms thereof for which petitioner is entitled for”.

3. In sum and substance, the petitioner wants payment of his retiral dues.

4. Learned counsel for the petitioner submitted that he was duly appointed in the College, though on *ad-hoc* basis, but later on his service was also approved and, thus, he continued to work on the post of Assistant Librarian in Awadh Bihari Sanskrit College, Rahimpur in the district of Khagaria. It was submitted that for various periods when he was not paid, he had moved the Court and the Court held that he was entitled to payment and the same was also paid. It was submitted that when some of his grievances were not redressed, he had filed representation before the University which was pending and, thus, he moved the Court once again and the Court had directed the authorities of the University to consider the representation and pass speaking order on his claim. The said representation was rejected by order dated 05.12.2011, which the petitioner again challenged in C.W.J.C. No. 15231 of 2012 and by order dated 28.01.2014, the



matter was remanded to the Principal Secretary, Education Department where the petitioner was directed to file representation. It was submitted that such representation has been filed in the year 2014 itself but till date the same has not been disposed off despite there being specific direction to do so within three months. Learned counsel submitted that even the Provident Fund of the petitioner has not been paid to him despite the principal of the College writing to the Registrar of the University since the last few years.

5. Learned counsel for the University submitted that there is dispute with regard to the very appointment of the petitioner as the same was without following any procedure prescribed in law and further that the post itself was unsanctioned. However, he submitted that as the money has to come from the State Government, the representation filed by the petitioner is pending before the Principal Secretary, Department of Education and any order passed on the same shall bind the University, which shall then take action with regard to the claim for post retiral benefits.

6. Coming to the merits of the matter, the Court finds that the present writ petition is premature and also not maintainable for the reason that pursuant to remand to the Principal Secretary, Department of Education by order passed by the Court in the writ petition filed by the petitioner himself, i.e., C.W.J.C. No. 15231 of



2012, the very validity of the employment of the petitioner is under scrutiny and even in the representation filed by the petitioner, copy of which has been shown to the Court by learned counsel for the petitioner, it is admitted that such decision will have effect on the terminal benefits payable to the petitioner. Thus, only upon the status of the employment of the petitioner is decided first, no terminal benefits can be paid as the same are directly dependant upon and related to the validity of the appointment/employment. Thus, only when such representation is finally disposed off by the Principal Secretary, Department of Education, the subsequent stage shall come where the authorities would have to take a call with regard to the terminal/retiral benefits which may be payable to the petitioner.

7. In view thereof, the writ petition stands disposed off with liberty to the petitioner that, if so required, he may approach the appropriate forum, in accordance with law, with regard to the grievance which he has raised in the present writ petition, upon his representation pending before the Principal Secretary, Department of Education being decided.

8. However, with regard to the Provident Fund, if it is found that Annexure P/9 of the writ petition is in accordance with the factual and legal position, the dues thereof, be also paid to the petitioner within four weeks from the date of production of a copy of



this order before the respondents no. 4 and 5. The Court would only indicate here that it has not decided with regard to who is the authority who shall pay the amount, whether the University or the College, and that too, upon proper verification from the official records with regard to the dues, in accordance with law.

(Ahsanuddin Amanullah, J)

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