

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No. 2558 of 2018**

**Along with**

**Interlocutory Application No. 4911 of 2018**

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Dr. Jagdish Prasad, S/o Late Banarsi Prasad, Resident of Village- Pipra, P.O.-  
Dumri, District- Begusarai- 851117.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Secretary, Higher Education, Government of Bihar, Old Secretariat, Patna.
3. The Vice- Chancellor of L.N. Mithila University, Kameshwar Nagar, Darbhanga.
4. The Registrar of L.N. Mithila University, Kameshwar Nagar, Darbhanga.
5. The Finance officer of L.N. Mithila University, Kameshwar Nagar, Darbhanga.
6. The Principal G.D. College, Begusarai.

.... .... Respondent/s

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**Appearance :**

|                      |   |                                                         |
|----------------------|---|---------------------------------------------------------|
| For the Petitioner/s | : | Mr. Avinash Kumar and<br>Mr. Krishna Chandra, Advocates |
| For the L.N.M.U.     | : | Mr. Md. Nadim Seraj, Advocate                           |
| For the State        | : | G.P. 17                                                 |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date: 10-07-2018**

Heard learned counsel for the petitioner; State and L.

N. Mithila University (hereinafter referred to as the 'University').

2. Interlocutory Application No. 4911 of 2018 has been filed on behalf of the University praying for modification of the order dated 25.06.2018 by which the University was directed to make payment of the remaining nine lacs and odd to the petitioner.

3. Learned counsel for the University submitted that they and the State Government has been restricting such payment on the ground that option has been given after the cut-of-date and, thus,



the petitioner is not entitled to the benefit of pension-cum-gratuity under the Triple Benefit Pension Scheme. It was further the stand that though in principle, some persons had moved before this Court in C.W.J.C. No. 16404 of 2007 and analogous cases and in those cases, the matter had travelled to the Hon'ble Supreme Court and the order of the learned single Bench has been upheld, the same was restricted to only such persons who were the writ petitioners, and, thus, with regard to others, including the petitioner, such amount was not being paid as the State was not releasing such fund.

4. On specific query of the Court as to whether on facts, the present case is similar to that of the petitioners of C.W.J.C. No. 16404 of 2007 and its analogous cases, the categorical stand of learned counsel for the University is that there is no difference.

5. Earlier also, in the cases filed by similarly situated persons where also the stand was taken on behalf of the State and the University on the basis of the observations of the Hon'ble Supreme Court with the relief being restricted to only such persons who had filed the writ petitions, the Court had held that such persons would also be covered in view of the principle being upheld by the Hon'ble Supreme Court and, thus, direction was issued to pay the same. The said order was passed on 22.06.2018 in C.W.J.C. No. 13991 of 2017 and analogous cases.



6. Having regard to the aforesaid, the Court finds no ground to take a different view in the present case. Once the entitlement of the petitioner to G.P.F.-cum-Pension is not in dispute and also the fact that direction being given for payment of arrears of difference of pension for periods prior to 20.12.2005, i.e., when the amendment was brought about by the State Government, being upheld by the Hon'ble Supreme Court in principle, this Court would also adopt the same principle.

7. Accordingly, the respondents are directed to pay the arrears in terms of the amendment of the State Government dated 20.12.2005, but with retrospective effect in light of the order passed by the High Court in C.W.J.C. No. 16404 of 2007 and analogous cases.

8. It goes without saying that the University shall give equal treatment to the petitioners with regard to payment as they have done with similarly situated persons including interest, for the reason that under the Constitution of India, both the State and the University cannot discriminate against the petitioners.

9. The writ petition stands allowed in the aforementioned terms.

10. In view of the order having been passed, no specific order is required to be passed on Interlocutory Application No. 4911



of 2018, which stands disposed off.

11. As there was a specific direction by the Court to learned counsel for the State to file affidavit on a specific point, which has not been complied with, the Court deems it appropriate to impose cost of Rs. 10,000/- on the State for such conduct. The same shall be deposited in the Juvenile Justice Fund of the State Social Welfare Department within two weeks from today and receipt filed, failing which, the Registry shall place the matter before the Bench for appropriate order.

**(Ahsanuddin Amanullah, J.)**

Anand Kr.

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