

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3044 of 2014

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Raghu Nath Ghosh Son Of Late Shyama Nath Ghosh Resident Of Raja
Shivchandra Banerjee Road, Adampur, P.S.- Adampur, District- Bhagalpur
.... Petitioner

Versus

1. The State Of Bihar, Through The Principal Secretary, Science And Technology
Department, Government Of Bihar, Patna
 2. The Director, Science And Technology Department, Government Of Bihar,
Patna
 3. The Principal, Bhagalpur Engineering College, Bhagalpur
 4. The Principal Secretary, Department Of Finance, Government Of Bihar, Patna
.... Respondents
- =====

Appearance :

For the Petitioner : Mr. S.K.Ghosh, Senior Advocate &
Mr. Sangha Mitra Ghosh, Advocate
For the State : Mr. Mukul Prasad, AC to GP 18

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 12-07-2014

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The petitioner was a senior instructor in the
Bhagalpur Engineering College, Bhagalpur under the Science and
Technology Department, Government of Bihar. The issue,
regarding entitlement to the benefits of the UGC scale including
parity in the matter of age of retirement with teaching staff, was
considered in various litigations which have been placed on record.
The petitioner was a party to CWJC No. 7160 of 1991 in which a
bench of this Court vide judgment dated 2.11.1995 held that the
petitioners would be treated at par with the other teaching staff. The



State of Bihar has also issued an order dated 8.9.1998 declaring the post of Senior Instructor on which the petitioner was working, as a teaching staff.

3. On basis of the said declaration, other persons who were working as Instructor/ Senior Instructor have been allowed to work until the age of 62 years as per age of retirement of teaching staff. The petitioner has specifically relied upon the decision dated 4.8.2011 in case of Ramanand Sharma and Dharmeshwar Prasad Sharma, passed in CWJC No. 7998 of 2009. Both the said persons were junior/senior instructor in the Bhagalpur Engineering College and have been allowed to superannuate at the age of 62 years taking them in service till the age of 62 years, at par with teaching staff.

4. Case of the petitioner is squarely covered by the decision rendered in case of said two persons. Reliance placed by the respondents upon order dated 12.9.2014, under memo no.2211(Annexure G), issued by the Director, Science and Technology Department, Government of Bihar, is misplaced. By the time order dated 12.9.2014 came to be issued the petitioner's right to continue in service till the age of 62, treating him as teaching staff had been recognized by the respondents themselves in light of departmental order dated 15.7.1998. In fact, by 12.9.2014 petitioner had already crossed the age of 60 and was to



retire on attaining the age of 62 as Ramanand Sharma and Dharmeshwar Prasad Sharma.

5. Be that as it may, when the matter is being considered in the Court today, even if the petitioner is to retire at the age of 62 years, he would have retired way back in January, 2016. The only issue which remains is of counting of period of two years in between January, 2014 to January, 2016 for the purpose of fixation of the post retiral dues of the petitioner.

6. Learned counsel for the State has objected that in view of the order dated 12.9.2014 the petitioner has no subsisting claim as on today.

7. This Court has already observed that the order dated 12.9.2014 has come much subsequent to the petitioner crossing the earlier age of retirement, i.e., 60 years. Petitioner, therefore, was to be treated similarly situated in the matter of age of retirement with Ramanand Sharma and Dharmeshwar Praqsad Sharma. Entitlement of the petitioner has to be decided by the Principal Secretary, Science and Technology Department, Government of Bihar (respondent no.1) in light of the observations made in this order.

8. Let the respondent no.1 take a final decision in view legal position operating at the time petitioner attained the age of 60 years with reference to the benefits granted to the aforesaid two



employees, preferably within a period of three months from the date of receipt/production of a copy of this order.

9. The writ petition is thus allowed.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.08.2018
Transmission Date	NA

