

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14729 of 2017

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Ramanand Thakur, Son of Late Vauvan Thakur, resident of Village- Shambhuar,
P.O.- Shambhuar, P.S. and District-Madhubani.

.... Petitioner/s

Versus

1. Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar,
Darbhanga through its Registrar.
2. The Vice- Chancellor, Kameshwar Singh Darbhanga Sanskrit University,
Kameshwar Nagar, Darbhanga.
3. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar
Nagar, Darbhanga.
4. Principal, Lakshmishwari Priya Raj Laxmi Sanskrit College, Samaul, P.O.-
Birsair, P.S.- Pandaul, District- Madhubani.
5. The State of Bihar through Principal Secretary, Department of Education,
Government of Bihar, Patna.

.... 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: 16-07-2018

Heard learned counsel for the petitioner; State and
K.S.D. Sanskrit University (hereinafter referred to as the
'University').

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

*“(i) Issuance of an appropriate writ in the nature
of Mandamus directing and commanding the*



respondents to pay the retiral benefits to the petitioner including full pension on the basis of last pay drawn in 6th Pay Revision Pay Scale, leave encashment, Gratuity and other admissible retiral dues with adequate amount of interest @ 18% per annum and suitable amount of compensation and Penal interest to which petitioner is entitled to.”

(ii) Issuance of an appropriate direction to Respondents that since as per provision under statute, Part II, Section II, Clause 14(i) the qualifying service period has been fixed which is being fulfilled by the petitioner, he is fully entitled to full pension and Gratuity.

(iii) Any other relief or reliefs be granted to petitioner to which he is found to be entitled to.”

3. In essence, the claim is for payment of pensionary benefits which is denied on the ground that as per the relevant Statutes duly approved by the Hon’ble Chancellor of Universities dealing with pension, the entitlement to the same is only to such affiliated colleges where there are more than 250 students appearing at the examinations yearly for the last 10 years from the date of consideration, which the school of the petitioner does not fulfill.

4. Learned counsel for the petitioner is not in a position to controvert the legal position. However, it has been submitted that the challenge to such provision is *subjudice* before the Division Bench of this Court in C.W.J.C. No. 9726 of 2017.



5. It has also been brought to the notice of the Court that similar matter has been disposed off by judgment and order dated 21.02.2018 passed in C.W.J.C. No. 2106 of 2017 and analogous case. Accordingly, the Court is of the considered opinion that the present case be also disposed off in the same terms. Learned counsel for the parties also agree to the same.

6. In view thereof, no relief can be granted to the petitioner, for the present, as there are specific statutory provisions which do not make him entitled to pensionary benefits. The contention of learned counsel for the petitioner that similarly situated persons are being paid, may not be relevant, as there cannot be any negative invocation of Article 14 of the Constitution of India. If something is being done, which does not have the force of law, the Court would not treat it as a precedence for directing that the same be done in the case of the petitioner, unless it is established that the same is to be done as a matter of right.

7. Learned counsel for the University has also taken a categorical stand that the Government is not releasing payment as per the budgetary requisition sent by them to the State Government with regard to payment of pensionary benefits to the teaching and non-teaching staff of the affiliated colleges.

8. Learned counsel for the State submitted that grants-in-aid are regularly being released to the University for payment after



considering the budget sent by the University.

9. Be that as it may, in view of the admitted position that the Statute does not permit payment of retiral benefits to the petitioner as he does not fall in the category of affiliated colleges which have a minimum 250 students appearing every year for the preceding 10 years, the writ petition stands disposed off. However, depending on the outcome of C.W.J.C. No. 9726 of 2017, the case of the petitioner shall also be governed by the same and if payment of pensionary benefits are required to be made to such persons, the State and the University shall ensure that the benefit is given to the petitioner without him having to approach the Court again.

(Ahsanuddin Amanullah, J)

Anjani/-

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