

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20464 of 2014

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Dr. Kashi Nath S/o Late Ram Sakal Prasad Gupta, Resident of A/24,
Anandpuri, P.O. - G.P.O., P.S. - S.K. Puri, District - Patna.

... .. Petitioner/s

Versus

1. The Patna University, through the Vice Chancellor, Patna University, Patna.
2. The Vice Chancellor, Patna University, Patna.
3. The Registrar, Patna University, Patna.
4. The Head of the Department, Physics Department, Patna University, Patna.
5. The Finance Officer, Patna University, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhinay Raj, Advocate.
For the Respondent/s	:	Mr. Md. Nadim Seraj, Advocate. Mr. Altamish, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 02-11-2018

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the University.

2. The petitioner has submitted application for grant
of voluntary retirement on 14.08.2013. In terms of the Patna
University Act (hereinafter referred to as the 'Act'), a teacher is
entitled to voluntary retirement after giving three months notice.
The petitioner was granted voluntary retirement vide
Notification dated 31.01.2014 in purported exercise of power
under Section 64(C)(i) of the Act. The said Notification was
subsequently cancelled vide Notification dated 01.02.2014 with
immediate effect and when the petitioner filed representation
against the withdrawal of the Notification granting voluntary



retirement on 15.02.2014, another Notification was issued by the University on 29.04.2014. The petitioner is aggrieved by labeling of 64(c)(i) and (ii) of the Patna University Act.

3. Mr. Abhinay Raj, learned counsel appearing on behalf of the petitioner, has submitted that the petitioner's grievance is only confined to levelling of Section 64(c) (ii) of the Act, as the petitioner has applied for voluntary retirement whereas Section 64(C)(ii) is attracted in case of compulsory retirement in public interest. The fact is that there was no order for compulsory retirement in public interest, compulsory retirement is permissible in case where an employee has become a dead wood. In the instant case, in fact, for his personal difficulty, the petitioner has applied for voluntary retirement, which is permissible under the provision of the Patna University Act. He has no objection with regard to recovery of three months salary from the Gratuity payable to the petitioner, he is only aggrieved by levelling of Section 64(C)(ii) of the Patna University Act which is not attracted in the case of voluntary retirement.

4. Learned counsel appearing on behalf of the University admits the legal position and the distinction between compulsory retirement and voluntary retirement.



5. Considering the fact that petitioner has applied for voluntary retirement so there was no occasion for the University to take step for compulsory retirement levelling the provisions of compulsory retirement of the petitioner, instead of voluntary retirement. Section 64(c)(ii) of the Act is applicable in case of compulsory retirement and as such the action of the respondent University levelling Section 64(c)(ii) is manifest error.

6. The Court, as such, directs the University to make necessary correction in the Notification granting voluntary retirement as the Notification in most unambiguous terms admits that petitioner has been granted voluntarily retirement with immediate effect from 14.08.2013 so that petitioner may not be construed as compulsory retired. Necessary corrective measures shall be taken by the University within a maximum period of 60 days from the date of receipt/production of a copy of this order.

7. With the aforesaid, this writ application stands allowed in this manner.

(Anil Kumar Upadhyay, J)

sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

