IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6103 of 2011

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Dr.Suprit Bhattacharya, C/O Devashish Bhattacharya, Kamalya Shiv Shankar Sahay Road, P.O. - G.P.O. Bhagalpur, P.S. - Kotwali, Bhagalpur, Distt. - Bhagalpur

.... Petitioner/s

Versus

1. The B.R.A. Bihar University, through its Registrar, University Campus, Muzaffarpur
2. The Vice Chancellor, The B.R.A. Bihar University, Muzaffarpur
3. The Finance Officer, The B.R.A. Bihar University, Muzaffarpur
4. The State of Bihar through Principal Secretary, H.R.D. Department, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Awadh Bihari Ojha, Sr. Advocate
Mr. Sri Niwas Jha, Advocate

For the Respondent/s : Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 29-08-2018

Heard Mr. Awadh Bihari Ojha, learned senior counsel for the petitioner and Mr. Anil Singh learned counsel for the University.

2. The grievance of the petitioner in the present writ application is wrong calculation of the post-retiral dues at the dictate of the Auditor of the State.

3. It has been held out in numerous decisions that the State Auditor has no role in the matter of pay fixation and entitlement of the teachers of the University.

4. From the counter affidavit, it appears that the University has acted on the basis of the audit objection by the Auditor

of the State.

5. In view of the various judgments of this Court, the action of the University at the dictate of the Auditor of the State is unsustainable. Pension is not a bounty. It has been held by the Apex Court and reiterated time and again in the matter of pensionary benefit, the respondents are required to consider the claim as a right and not as a bounty. They are also required to consider the entitlement of the post-retiral dues on the basis of their own decision and not to be influenced by the decision of Auditor of the State Government.

6. The petitioner superannuated as University Professor on 30.04.2004. Post-retiral dues was calculated by the respondents on the lower side. The reason for such calculation appears from the counter affidavit is the audit objection of the Auditor of the State Government.

7. Since the petitioner superannuated in 2004 itself. It is incumbent upon the University to recalculate the post-retiral dues in accordance with the determination by the University and not under the influence of the objection of the State Auditor. Necessary corrective measures may be adopted by the University in the matter of recalculation of post-retiral dues within a period of 60 days from the date of receipt/production of a copy of this order.

8. In the event, there is delay in calculation in

payment of retiral dues, the payments will carry interest at the rate of 9% per annum from the date of superannuation till the date of actual payment, which shall be born out from the pocket of the officials of the University for which the Vice-Chancellor is required to identify the erring officer, who is responsible for delaying in payment of pensionary benefits.

9. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.08.2018
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