

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18200 of 2016

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Ram Ashray Yadav Son of Late Ram Chandra Yadav, Resident of 01, Shivpuri,
Boring Road, Behind A.N. College, P.O. +P.S.-Shastri Nagar, District and Town-
Patna.

.... Petitioner/s

Versus

1. Patna University through its Registrar, Patna.
2. The Vice- Chancellor, Patna University, Patna.
3. The Registrar, Patna University, Patna.
4. The Finance Officer, Patna University, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Tiwary, Advocate
For the Patna University : Mr. Md. Nadim Seraj, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 14-03-2018

Heard learned counsel for the petitioner and Patna
University.

2. After the matter had been heard at length and assistance rendered by the learned counsel for Patna University, learned counsel for the petitioner submitted that the case be adjourned as some other counsel would assist the Court. The Court rejects such prayer as for quite some time the case having been heard, the arguments of the other side concluded and learned counsel for the petitioner also initially having assisted the Court and then later on making prayer for adjournment, is both unjustified and unreasonable. Accordingly, the same is rejected.

3. The petitioner has moved the Court for the following



reliefs:

“(I) For issuance of a writ in the nature of Mandamus or any other appropriate writ, order or directions for commanding and directing the respondents to fix and release the amount of full pension and other retrial benefits to the petitioner on the basis of his qualifying service rendered in the University.

(II) For issuance of any other relief or reliefs which may deems fit and proper under the facts and circumstances of the case.”

4. In the counter affidavit filed on behalf of Patna University, the stand is that the petitioner joined the Patna University on 06.09.1966 and served till 31.08.1974. Thereafter, he was granted extraordinary leave to serve in Kuwait University from 09.09.1974. The further stand is that extraordinary leave is sanctioned only for a maximum period of five years whereas the petitioner continued to work in Kuwait University till 10.09.1990, without any communication or extension of his leave. It has further been stated that even after returning to India, the petitioner did not join the University and rather took up the post of Chairman of Bihar Public Service Commission and thereafter the Vice Chancellor of Tilka Manjhi Bhagalpur University, on which he continued till February, 2004, though having attained the age of 62 years on 30.09.2002. The further stand is that in terms of Rule 103(b) of Section (3) of Section -V of the Bihar Pension Rules, the petitioner is not entitled to retiral



benefits as the same has led to forfeiture of his past service on account of interruption in service due to unauthorized absence. The further stand is that Clause 24(b) of the relevant statute stipulates that the Bihar Pension Rules will apply, as amended from time to time, in all matters not covered by the preceding Rules so far as procedure regarding payment of pension(s)/ gratuity is concerned. It has further been stated that the petitioner has taken his entire C.P.F. amount after applying for the same and full and final payment after closing of the account has been made under order dated 21.04.1994, which has also been received by the petitioner on 18.05.1994.

5. Learned counsel for the Patna University further submitted that the entire absence, right after the initial grant of extraordinary leave with effect from 06.09.1974, the petitioner has neither intimated nor joined the University at any point of time and, thus, the University appointed Mr. Surendra Mohan Ashok substantively on the post held by the petitioner with effect from 01.12.1980. Learned counsel submitted that the said order of the University dated 27.04.2000 was never challenged by him and the same has attained finality and, thus, the post hold by him has also been filled up by another person with effect from 01.12.1980 and forfeiture of his past service on account of unauthorized absence has led to a situation where nothing is payable to the petitioner by the



University.

6. Having considered the aforesaid, without there being any rebuttal by learned counsel for the petitioner or the Court having been shown any provision to counter the case of the Patna University, the Court finds that no relief can be granted to the petitioner under its discretionary, prerogative and extraordinary jurisdiction under Article 226 of the Constitution of India.

7. Accordingly, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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