

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.103 of 2018
IN
Civil Writ Jurisdiction Case No. 15762 of 2015**

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Shashikant Choudhary, son of Late Udit Narayan Choudhary, resident of village Mahishi, P.S. Mahishi, District Saharsa.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. The Vice Chancellor, B.N.Mandal University, Laloo Nagar, Madhepura.
4. The Registrar, B.N. Mandal University, Laloo Nagar, Madhepura.
5. The Finance Officer, B.N. Mandal University, Laloo Nagar, Madhepura.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anil Kumar, Adv.
For the University : Mr. Raju Giri, Adv.
For the State : Mr. Amrendra Kumar, Adv.

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**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)
Date: 04-07-2018

Re: I.A. No.2218 of 2018

This Interlocutory Application has been filed for
condonation of delay of six days in filing of the present appeal.

The delay is condoned.

Challenge in the present Letters Patent Appeal is to the
judgment dated 12.12.2017 passed by the learned Writ Court in Civil
Writ Jurisdiction Case No.15762 of 2015. By the impugned judgment,
while directing the University officials to make remaining payment of



Rs.2,00,000/- due to the petitioner on account of his retiral benefits within a period of one month, the learned Writ Court having found that the petitioner was unable to explain his possession over the official records, directed the University to ensure that strict action, in accordance with law, be taken with regard to the petitioner keeping with himself the original records and also for filing copies of such original records without there being any explanation as to how the same were procured legally.

While assailing the impugned judgment, learned counsel representing the appellant submits that in fact while directing the University to take strict legal action against the petitioner the learned Writ Court ignored the grievance of the petitioner-appellant as regards non-payment of full amount of leave encashment, gratuity and arrears of pension as well as the implementation of the notional benefits of pension. Learned counsel submits that the photocopies of the extracts of the file were brought on record only to explain that the University has indulged in filing of the false affidavit. It is submitted that the stand taken by the Finance Officer of the University before the learned Writ Court that this petitioner being an Account Clerk in finance section of the University used to process the salary and advances and that he has been keeping the original files with him were denied by the petitioner.



On going through the pleadings available on the record and the contents of the impugned judgment, we find that the stand of the University is that the settlement of retiral dues has been done, account of the petitioner has been reconciled and a sum of Rs.2,00,000/- which has been found due to the petitioner which will be paid to him. It appears from 2nd supplementary counter affidavit filed on behalf of the University before the learned Writ Court that the University has provided the calculation on account of arrear of pension, gratuity and leave encashment which comes to Rs.3,26,102/- but as against that an outstanding of Rs.4,95,000/- has been shown against the petitioner being the total of the various amounts received by him at different points of time for certain purposes. In paragraph 9 of the 2nd supplementary counter affidavit the respondents have taken a plea that whether the pensionary benefits have been fixed notionally taking into consideration the length of service of the petitioner from 04.10.1980 in terms of the notification dated 03.11.2010 (Annexure-7) is being looked into.

In the given facts and circumstances, which are available on the record, we do not find any error in the impugned judgment. The learned Writ Court has only directed the University to take a strict view of the matter as regards the petitioner keeping with him the original records, the University is obliged to follow the



direction of the learned Writ Court in this regard in accordance with law. In view of the statements of the University that they are looking into the grievance of the petitioner as regards implementation of the notification (Annexure-7 to the writ application), the petitioner may pursue the same with the University.

We do not find any error in the impugned judgment.
The Letters Patent Appeal is, thus, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
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Transmission Date	N/A

