IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.258 of 2014

Dr. Ram Ashish Singh S/O Late Hari Prasad Singh R/O House No. 25, Road No. 5, Gandhi Murti, East Patel Nagar, P.S.- Shastrinagar, Dist.- Patna

... ... Appellant

Versus

1. The Secretary, Department Of Personnel And Administrative Reforms, Government Of Bihar, Patna
2. The State Of Bihar Through Secretary Cum Commissioner, Department Of Finance, Government Of Bihar, Patna
3. The Accountant General, Bihar, Patna
4. The Bihar Public Service Commission Through Its Secretary, Having Office At 15, Bailey Road, Patna
5. Prof. Satyendra Singh S/O Late Ram Lakhan Singh R/O C/32 Lohia Nagar, Kankarbagh, P.S.- Kankarbagh, Dist.- Patna
6. Dr. Keshav Prasad Singh S/O Late Ram Sundar Singh R/O C-10, Professor'S Colony, North Shastrinagar, P.O.+P.S.- Shastrinagar, Distt.- Patna
7. Dr. M. Mohiuddin S/O Late M. Abdullah Ansari, House No. 7, Road No. 12, Rajendra Nagar, P.S.- Kadamkuan, Distt.- Patna
8.

... ... Respondents

with

Letters Patent Appeal No. 457 of 2014
In
Civil Writ Jurisdiction Case No.3652 of 2010

1. Prof. Satyendra Singh S/o Late Ram Lakhan Singh Resident of C/32, Lohia Nagar, Kankarbagh, P.S- Kankarbagh, Patna- 800020.
2. Dr. Keshava Prasad Singh Son of Late Ram Sunder Singh Resident of C-10, Professors Colony, North Shastri Nagar, P.O and P.S- Shastri Nagar, Patna- 800023
3.

... ... Appellants

Versus

1. The State Of Bihar Through The Secretary- Cum- Commissioner, Departmnet Of Finance, Government Of Bihar, Patna.
2. The Secretary, Department Of Personnel And Administrative Reforms, Government Of Bihar, Patna.
3. The Accountant General, Bihar, Patna.
4. The Bihar Public Service Commission Through Its Secretary Having Office At 15, Bailey Road, Patna.
5.

... ... Respondents

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Appearance :

(In Letters Patent Appeal No. 258 of 2014)

For the Appellant :	Mr. Awadh Bihari Ojha, Senior Advocate Mr. Nitesh Kumar, Advocate
For the Respondent State:	Mr. Vivek Prasad, G.P.-7 Mrs. Manisha Singh, AC to GP-7
For the Respondent BPSC :	Mr. Sanjay Pandey, Advocate
For the Accountant General :	Mr. Vivekanand Kumar, Advocate

(In Letters Patent Appeal No. 457 of 2014)

For the Appellant :	Mr. Subhash Chandra Jha, Advocate
For the Respondent State:	Mr. Vivek Prasad, G.P.-7 Mrs. Manisha Singh, AC to GP-7
For the Respondent BPSC :	Mr. Sanjay Pandey, Advocate
For the Accountant General :	Mr. L.P.K. Rajgrihar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 29-01-2018

Heard learned counsel for the parties.

Writ application of these appellants was heard by the learned single Judge and except for a direction for payment of dearness allowance to the appellants, the amendment, which was brought about in the Notification dated 03.09.2008, which, according to these appellants, has effect of taking away the benefit of grant of pension to the extent of 1/6th of their pay for having rendered service as a Bihar Public Service Commission (BPSC) Member, was negated by the learned single Judge.

It has to be kept in mind that the amendment dated 03.09.2008 was brought about as part of the power exercised under Article 318 of the Constitution of India by the Hon'ble Governor

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of Bihar under the circumstances that many such members, who came to be appointed in the BPSC also happened to be teachers in one University or the other. When they were appointed as a member of the BPSC, they continued their lien on the post of a teacher and if they did not superannuate during the period when they were members of the BPSC from the College or the University in question, they went back to their teaching assignment and derived the benefit of original post, on which they were working, prior to their interregnum responsibility as a member of the BPSC.

In the above factual background, such persons, who were teachers, had the benefit of service as well as pension after superannuation from the University and, therefore, the concept of making two pensions available to them one for the period they worked as the BPSC member and other from the University was something, which dawned upon the state authorities. The concept of pension for a Member or the Chairman was very much ingrained in the earlier notifications, but that was with the object of extending the benefit of such members or chairman who did not derive benefit of pension in any category much less to the category these appellants belong. However, be it lack of oversight or wrong interpretation if some of these appellants derived the benefit of

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pension from the University as well as from BPSC, then they were deriving double pensions which in our opinion was undesirable.

It was in this background that the State decided that for persons who were University teachers, the period they would have rendered in BPSC will be added as the part of service rendered under the University and their post retiral dues including pension would be fixed on the basis of their length of service under the University including the add on service rendered in the BPSC.

Through the writ applications, the effort on the part of the appellants was to continue with the benefit of pension from the BPSC independent of the pension they were deriving from the University.

We are of the opinion that the learned single Judge after considering the entire gamut of the fact and the various principles of law, has rightly come to a conclusion that 2008 notification is not required to be interfered and when the period of service they have rendered as Members or the Chairman of the Commission will be added to the length of service in the University and they will derive pension on the basis of the total service, they have rightly been denied the benefit of a separate pension for service rendered under the BPSC.

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We refuse to interfere with the order of the learned single Judge for the reasons indicated above.

The appeals are dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	A.F.R.
CAV DATE	N/A
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