

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13991 of 2017

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Dr. Nawin Krishna Prasad, Son of Late Anand Krishna Prasad, Resident of T603/604 Nargis Jalvayu Vihar Phase-I Sector 20, Kharghai Navi Mumbai, 410210, presently residing at C/o Dr. N.N. Sinha, 208, Shasti Complex, Near Shiv Mandir, New Jakkampur, P.S.- Jakkampur, District- Patna, a superannuated employee as University Professor from G.D.College, Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. The Vice Chancellor, L.N. Mithila University, Darbhanga.
4. The Registrar, L.N. Mithila University, Darbhanga.
5. The Finance Officer, L.N. Mithila University, Darbhanga.
6. The Principal, G.D. College, Begusarai.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 20341 of 2016

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Gopal Prasad Singh, son of Late Vindhvasani Singh, resident of Village- Belsandi Tara, P.S.- Bibhutipur, District- Samastipur, (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Higher Education, Government of Bihar, Patna.
4. The Lalit Narain Mithila University, Darbhanga through its Registrar.
5. The Vice- Chancellor, Lalit Narain Mithila University, Darbhanga.
6. The Registrar, Lalit Narain Mithila University, Darbhanga.
7. The Principal, Samastipur College, Samastipur.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 15009 of 2017

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Dr. Thakur Harendra Dayal Sinha Son of Late Thakur Priakeshwar Dayal Sinha resident of C/o Dr. Narmadeshwar Nath Sinha, 208 Shasti Complex, Mohalla - New Jakkampur, District Patna, retired as University Professor in the subject of Ancient History & Culture from G.D. College, Begusarai a constituent unit of L.N. Mithila University, Darbhanga.



.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. The Vice Chancellor, L.N. Mithila University, Darbhanga.
4. The Registrar, L.N. Mithila University, Darbhanga.
5. The Finance Officer, L.N. Mithila University, Darbhanga.
6. The Principal, G.D. College, Begusarai.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 18326 of 2017

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Vijay Kumar, S/o Late Tarni Prasad Singh, resident of Muhalla- Kashipur, West of Girls High School, Kashipur, P.S. and District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. The Vice- Chancellor, L.N. Mithila University, Darbhanga.
4. The Registrar, L.N. Mithila University, Darbhanga.
5. The Finance Officer, L.N. Mithila University, Darbhanga.
6. The Principal, Samastipur College, Samastipur.

.... Respondent/s

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Appearance :

(In CWJC No.13991 of 2017)

For the Petitioner/s : Mr. Shashi Bhushan Singh, Advocate

For the State : Mr. Jitendra Kumar Ray – S.C.13

For L.N.M. University : Mr. Md. Nadim Seraj, Advocate

(In CWJC No.20341 of 2016)

For the Petitioner/s : Mr. Sunil Kumar Singh, Advocate

For the University : Mr. Arun Kumar Prasad, Advocate

For the State : Mr. Prabhakar Jha- G.P.27

(In CWJC No.15009 of 2017)

For the Petitioner/s : Mr. Shashi Bhushan Singh, Advocate

For the Respondent/s : Mr. Madhaw Prasad Yadav – G.P.23

For L.N.M.U. : Mr. Dr. Anshuman, Advocate

(In CWJC No.18326 of 2017)

For the Petitioner/s : Mr. Shashi Bhushan Singh, Advocate

For the Respondent/s : Smt. Binita Singh- S.C.28

For L.N.M.U. : Mr. Dr. Anshuman, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT



Date: 22-06-2018

Heard learned counsel for the petitioners; State and L.N. Mithila University (hereinafter referred to as the 'University').

2. Learned counsel for the petitioner in C.W.J.C. No.15009 of 2017 is directed to correct the date of the order impugned as mentioned in paragraph 1(I) of the writ petition. Let the same be done during the course of the day.

3. The controversy in the present writ applications hinges on the issue as to whether the petitioners are entitled to get pension in terms of the triple benefits for the University employees. Once the issue is decided, the rest is only consequential.

4. The said issue has been dealt in detail by the Court in its order dated 24.12.2014 passed in C.W.J.C. No.5776 of 2010 in which it has been held that if a person had not opted within time for any particular scheme, automatically, he has to be deemed to have opted for Option-A i.e., G.P.F.-cum-pension. Thus, in such view of the matter, following the principle laid down in the aforesaid order dated 24.12.2014, as it is an admitted position that within the cut off date, the petitioners had not opted for any option, they shall be deemed to be covered under Option-A, which provides for G.P.F.-cum-pension. The petitioners having applied for another option beyond the cut off date is irrelevant and shall have no adverse impact on their claim. Thus, once the Court has held them entitled to G.P.F.-



cum-pension, automatically all other reliefs being consequential are required to be paid to the petitioners.

5. An objection has been raised on behalf of the State that the petitioners have moved the Court belatedly for the cause of action. The said objection is noted for the purpose of rejecting the same for the reason that claim of pension is recurring claim and there cannot be any limitation.

6. The Court may note here that though the petitioners are getting pension but with regard to arrears for the period prior to 01.01.2006, the same was denied in view of the stand taken by the State Government that the amendment revising such pension came into effect from 20.12.2005 and, thus, payment of revised pension shall be only prospective. Such decision was challenged by some persons before the High Court and they succeeded before the learned single Bench as well as the Division Bench in L.P.A. and the challenge to the same by the State before the Hon'ble Supreme Court in Special Leave to Appeal CC No.21039 of 2015, was rejected by order dated 04.12.2015. However, it was noted that the order stood confined to the persons, who had filed the writ petition. The State and the University under the garb of such observation are now taking the stand that the benefit would be restricted only to those persons and not to others including the present petitioners.



7. Having regard to the fact that once the entitlement of the petitioners to G.P.F.-cum-pension is not in dispute and also the fact that direction for payment of arrears of difference of pension for periods prior to 20.12.2005, i.e., when the amendment was brought about by the State Government, being upheld by the Hon'ble Supreme Court in principle, this Court would also adopt the same principle. The respondents are directed to pay the arrears in terms of the amendment of the State Government dated 20.12.2005, but with retrospective effect in light of the order passed by the High Court in C.W.J.C. No.16404 of 2007. It goes without saying that the University shall give equal treatment to the petitioners with regard to payment as they have done with similarly situated persons including interest, for the reason that under the Constitution of India, both the State and the University cannot discriminate against the petitioners.

8. The writ petitions stand allowed in the aforementioned terms.

(Ahsanuddin Amanullah, J)

N.H./-

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