

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 14040 of 2014

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Ram Sagar Sinha Son of Late Pyare Sinha resident of village - Veer Sahaiya,
P.O. Sindhiya Ghat, Police Station - Bibhutipur, District - Samastipur,
Presently Posted as Instructor in MIT, Muzaffarpur (Bihar)

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary, Department of Science and Technology, Govt of Bihar, Patna
3. The Director, Department of Science and Technology, Govt. of Bihar, Patna
4. The Principal, M.I.T., Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s Bindhyachal Singh, Satya Prakash, Advocates
For the Respondent/s : Mr Anuj Kr, AC to GP XXIV

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 06-08-2019

Heard learned counsel for the petitioner and the
respondent-State.

2 Mr Bindhyachal Singh appearing for the petitioner
submits that the objection raised by the State Counsel with regard
to Bihar State Universities (Amendment and Validation) Act, 2012
(for brevity, Amendment Act, 2012) cannot be sustained to deny
the petitioner the benefits of treating his age of retirement to be 62
years, in view of the proviso to sub-section (V) of Section 2 of the
Amendment Act, 2012.



3 Issue, in similar and identical circumstances, has already been decided by coordinate Bench under order dated 09.10.2017 bearing CWJC No 1721 of 2014. Other similarly situated as the petitioner have been granted pay, salary and other allowances treating them to be in service till 62 years.

4 Issue, in the same circumstances having been decided in favour of other similarly situated, no adjudication is required to be done in the instant case as the facts are admitted that the petitioner was working as the Instructor in the Government Engineering College and in terms of the law declared by this Court in CWJC No 8937 of 2009 which stands affirmed by the Apex Court, the petitioner is entitled to parity with the Teaching Staff and benefit of the enhanced age of 62 years.

5 The only subsequent objection, which has been raised in the instant proceedings, is that in view of the provisions of the Amendment Act, 2012, the claim of the petitioner is not sustainable. The effect of the Amendment Act, 2012 has been considered by this Court in the decision dated 09.10.2017 passed in CWJC No 1721 of 2014. Placing reliance on the proviso to sub section (V) of Section 2 of the Amending Act, 2012, this Court has observed in respect of working Demonstrators appointed before 18.09.1975 on sanctioned posts before 01.01.1973 with



concurrence of the Bihar Public Service Commission or Bihar State University Service Commission, that action taken in their respect will not be affected. Claim of other similarly situated as the petitioner has been allowed.

6 Petitioner, therefore, is also entitled to similar relief not only in view of the order passed by the Writ Court, but also having regard to the provisions contained in Clause 4.C (1) of the Bihar State Litigation Policy, 2011. In view of the facts taken note of herein above, the petitioner's case would come within "covered matters" in terms of Clause 4.C (1) of the Bihar State Litigation Policy, 2011.

7 The petitioner, therefore, should be granted the pay, salary and allowances treating him in service till the age of 62 years within four months from the date of receipt/production of a copy of this order.

8 Writ petition stands allowed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.08.2019
Transmission Date	NA

