

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18714 of 2019

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Krishna Chandra Dwivedi, S/o Late Ram Hari Prasad Dwivedi, resident of mohalla- Prof. Colony, Lane No. 1, Tajpur Road, P.S.- Samastipur (Sadar), District- Samastipur. Petitioner.

Versus

1. The State of Bihar through the Principal Secretary (Higher Education) Department, Government of Bihar, Patna.
2. The Director (Higher Education) Government of Bihar, Patna.
3. The Director Rural Institute of Higher Studies at Birauli, P.S.- Pusa, District- Samastipur.
4. The Accountant General Bihar, Veer Chandra Patel Marg, Patna.

... .. Respondents.

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Appearance :

For the Petitioner/s : Mr. Kripa Nand Jha, Advocate.
For the Respondent/s : Mr. Kameshwar Kumar, GP-17

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 15-06-2020

This case has been heard through video-conferencing.

As the pleadings being complete, with consent of parties, this writ petition has been heard for final disposal at this stage itself.

By way of filing the present writ petition, the petitioner seeks for a direction to the respondent authorities to pay his entire retiral dues i.e. earned leave, group insurance, pension, gratuity, difference of salary in 6th PRC, provident fund and the benefit of 2nd and 3rd ACP admissible to him along with interest at the rate of 10% over the entire dues from the date, it is due till the date of its actual payment and also for holding and



declaring that the petitioner is entitled to get the pension and gratuity and all other retiral dues from his post keeping in view that the other employees of the Rural Institute of Higher Studies at Birauli, Samastipur (hereinafter in short referred to as the 'Institute') have been allowed the said benefits, which has been approved by this Court and affirmed up to the Hon'ble Apex Court.

Learned counsel for the petitioner submits that the aforesaid Institute was initially established in the year 1955 at Turki, Muzaffarpur and, later on, it was shifted to its present place Birauli, Samastipur. The pervasive control over the Institute is fully controlled and managed by the Higher Education Department, Government of Bihar and the employees of the Institute are being paid directly by the Government of Bihar. The Institute is imparting education up to graduation level. Pursuant to an advertisement, the petitioner applied and after following the procedure of law i.e. interview and viva-voce, he was appointed on the post of Lecturer on 16.04.1979 in the Political Science Department. Subsequently, the service of the petitioner was confirmed and he continued in his service on the said post. After continuous service on the aforesaid post, the petitioner was made to superannuate from his post with effect



from 31.05.2012. Learned counsel for the petitioner further submits that the petitioner along with others had approached this Court by filing C.W.J.C. No.5651 of 2012 with a prayer, *inter alia*, to treat their services up to the age of 65 years as per the University Grants Commission norms. The said writ petition was allowed on 17.10.2014 and during pendency of the writ petition, the petitioners were granted interim protection for continuance on their respective posts. Aggrieved by the order of the Writ Court, the State of Bihar filed L.P.A. No.83 of 2016, which was heard on 03.04.2018 and the order of the Writ Court was set aside treating these petitioners and others to be Bihar Education Service Class-II employees and therefore, by virtue of the said order, the aforesaid order dated 12.04.2018 was issued giving effect of retirement with effect from 31.05.2012. After receiving the letter dated 12.04.2018 of the Director of the Institute, the petitioner filed several representations before the concerned respondent to pay his entire retirement dues, but no response was taken by the respondent concerned. After the order passed by the Division Bench in L.P.A. No.83 of 2016, the petitioner once again filed a representation on 01.10.2018, which was received by all concerned, but till date no retiral dues have been paid to him. Some of the retired employees of the



Institute, who were not paid their retirement benefits, had approached this Court by filing C.W.J.C. No.22962 of 2012. The said writ petition was heard along with other similar writ petitions and this Court vide order dated 30.01.2014 had directed the respondents to pay their retiral dues, including the pension and gratuity. Against the order dated 30.01.2014, the State of Bihar filed L.P.A. No.1269 of 2014 but this Court was clearly of the opinion that the employees of the Institute are entitled to get pensionary benefits and the respondents were directed to pay the same to the said writ petitioners till final hearing of the said appeal. Learned counsel for the petitioner further submits that against the interim order of the Division Bench, the State of Bihar filed S.L.P. No.12196 of 2015 and the Hon'ble Apex Court did not interfere with the order passed by the Division Bench and the said S.L.P was dismissed. Hence, the order of this Writ Court attained its finality. On 04.02.2019, the pending L.P.A. No.1269 of 2014 was finally heard by the Division Bench of this Court along with other analogous cases and dismissed the said L.P.A. filed by the State of Bihar. He also submits that the other employees of the same Institute have been allowed all the retiral benefits including pension and gratuity, but the petitioner has not been paid any penny till date, for the



reasons best known to the respondent authorities. After moving from pillar to post, finding no response from the respondent authorities, the petitioner has approached this Court.

A counter affidavit on behalf of respondent nos.1 & 2, which was filed on 19.11.2019, is on record and a rejoinder thereto filed by the petitioner is also on record.

On the other hand, learned counsel for the State submits that in view of the orders passed by this Court, the Department has processed a file to grant similar relief for grant of pension and gratuity to the other employees of the Institute under the Bihar Litigation Policy. He further submits that for grant of similar relief a proposal has been forwarded on 14.10.2019 to the Finance Department to formulate a general policy for the present purpose and the same is under consideration before the Finance Department. Meaning thereby that the respondent authorities have accepted the claim of the petitioner but they are not paying the same on one pretext or the other or on one pretence or the other.

Having heard the parties, in my considered view, as the similarly situated persons of the same Institute have been paid their retiral dues, then the justice demands that equity and parity must be maintained with the petitioner. Although, it is



admitted in the counter affidavit that the file is before the Finance Department under consideration but almost eight months have gone by and the respondent authorities are sitting tight over the matter and no fruitful action has been taken by them in this regard. Therefore, I direct the respondent no.2-the Director (Higher Education), Government of Bihar, Patna to pay the entire retiral dues of the petitioner within a period of two months from the date of receipt/production of a copy of this order before him, failing which he shall be personally liable to pay 9% interest on the entire dues from the date of filing of the present writ petition till its actual payment.

With the aforesaid observation and direction, this writ petition stands disposed of.

(Anjani Kumar Sharan, J.)

Trivedi/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	17-06-2020
Transmission Date	NAt

