

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3383 of 2019

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Kedar Narayan Jha son of late Upendra Narayan Jha Resident of Village-
Dhamiyapatti,P.S- Deodha, District- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar and Ors Bihar
2. The Principal Secretary, Human Resources Department, Government of Bihar, Patna
3. The Director, Higher Education, Human Resources Department, Government of Bihar Patna
4. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga
5. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga
6. The Principal, Satya Narayan Sanskrit College, Chhatauni, District- Madhubani

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Satish Chandra Jha 3
For the Respondent/s	:	Mr. Subhash Chandra Mishra (SC16)
For the University	:	Mr. Gyanand Roy with Mr. Awadesh Prasad Sinha

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

10 13-01-2021

It is the petitioner's claim that he was appointed as Lecturer in English against a sanctioned post in Satya Narayan Sanskrit College, Chhatauni in the district of Madhubani, which is a deficit grant affiliated Sanskrit College under Kameshwar Singh Darbhanga Sanskrit University, Darbhanga in 1978. He retired w.e.f. 30.09.2003.

It appears from a Division Bench decision of this Court dated 23.07.2018 passed in C.W.J.C. No. 9726 of 2017



(Dr. Jitendra Narayan Singh v. Another Chancellors of University of Bihar) that in the light of demands being raised by the employees of deficit grant minority colleges and other deficit grant colleges to provide them post retirement triple benefit scheme', a decision was taken by the State Government to extend them such benefits vide resolution no. 171 dated 18.01.2011 to the employees of deficit grant minority colleges as well as other deficit grant colleges. Consequently, relevant amendments came to be introduced in the statutes for grant of retirement benefits to the teachers of deficit grant colleges. The scheme for grant of the triple benefit scheme i.e. General Provident Fund-cum-Pension-cum-Gratuity was made available only to such teaching and non-teaching employees of the minority colleges, who were legally appointed on or before 31.08.2005. It clearly mentioned that the benefits would be admissible only to the teaching and non-teaching employees working on the date with effect from which amendment came into force and 'not to the retired teaching and non-teaching employees'.

It further prescribed that the benefit would be given to the employees of only such deficit grant affiliated and deficit grant minority colleges having at least 250 students



appearing annually at the University examination consistently during each of the preceding 10 years from the date of notification of the resolution. The said condition no. 5 of the letter dated 15.01.2014 of the Vice Chancellor whereby, while amending statues for grant of retiral benefits, it was stipulated that the benefit of payment of post retiral benefits under the statues would be given to the employees of such deficit grant affiliated and deficit grant minority colleges only that have at least 250 students appearing annually was put under challenge by way of writ application before this Court, which gave rise to C.W.J.C. No. 9726 of 2017 (**Dr. Jitendra Narayan Singh**) (supra). A Division Bench of this Court by Judgment and order dated 23.07.2018 held condition no. 5 to be *ultra-vires* Article 14 of the Constitution of India. Relevant portion of the said decision reads as under:-

“In view of what we have noticed and discussed hereinabove, we find no merit in the contention of the State. The condition no.5 as contained in letter no. BSU-52/80-5285/GS(I) dated 18.11.1980, contained in letter dated 15.01.2014 (Annexure-4) is declared illegal, arbitrary and bad in law. The condition no.5 is ultra vires to Article 14 of the Constitution of India and hence shall not operate.”

It is the petitioner's case that in the light of



Division Bench decision of this Court, he is entitled for the pensionary benefits under the triple benefit scheme, as noted above. It is the case of the respondents that the said Division Bench decision in case of ***Dr. Jitendra Narayan Singh*** (supra) has been assailed before the Supreme Court.

Mr. Satish Chandra Jha 3, learned counsel appearing on behalf of the petitioner has submitted that since the petitioner's case is squarely covered by the Division Bench decision in case of ***Dr. Jitendra Narayan Singh*** (supra) and the matter is pending before the Supreme Court, this matter may be adjourned till the matter is finally decided by the Supreme Court.

I do not find any merit in the submissions made on behalf of the petitioner since I am of the considered view that the said Division Bench decision does not at all apply to the petitioner's case. The Division Bench, in case of ***Dr. Jitendra Narayan Singh*** (supra) has declared condition no. 5 only as noted above *ultra-vires* Article 14 of the Constitution of India. It is specifically mentioned in the scheme that it will apply only to the persons working as on the effective date of the amendment and not to the retired teaching and non-teaching employees. The petitioner had retired long back, in the year



2003.

This writ application in my opinion is wholly
misconceived and is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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