

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2510 of 2022

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Ashok Kumar Singh, Male, aged about 62 years, Resident of Professor Colony, Bangali Tola, P.O. and P.S. - Balbhadarpur, District- Darbhanga, Pin Code - 846001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. Director Higher Education, Bihar, Patna.
3. L.N. Mithila University, Darbhanga through its Registrar.
4. Vice Chancellor, L.N. Mithila University, Darbhanga.
5. Registrar, L.N. Mithila University, Darbhanga.
6. Principal, Kunwar Singh College, Laheriasarai, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhinav Srivastava, Sr. Advocate
For the Respondent/s	:	Ms. Shilpa Singh, GA 12
For the L.N.M.U.	:	Mr. Shailesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 10-03-2022

Heard the parties.

The case is being taken up from defect side.

Learned counsel for the petitioner is directed to submit the original petition along with attested affidavits and also remove all the defects pointed out by the Registry within two weeks from today.



The petitioner by way of this petition assails the letter dated 03.09.2021, whereby he has been superannuated with effect from 31st January, 2022, upon attaining the age of 62 years from the constituent college of LN Mithila University, Darbhanga. Learned counsel for the petitioner submits that the petitioner was entitled to continue in service up to 65 years as he was holding the post of Demonstrator which was in the category of teacher. Learned counsel further submits that the petitioner has to be treated to be working on a sanctioned post in the teacher's grade and even as per the amendment made in the Bihar Act 23 of 1976, the petitioner would be entitled to be given the status of teacher and as the superannuation age of a teacher is 65 years, he should be allowed to continue up to 65 years of age and his retirement should be set aside.

Learned counsel appearing for the University has opposed the petition.

I have considered the submission. The amendment made in Section 2 of the Bihar Act 23 of 1976 vide Gazette notification dated 27th December, 2012, reads as under:

“2. Amendment in Section-2 of the Bihar Act-23, 1976 - clause (v) of section-2 shall be substituted by the following :-

“(v) "Teacher" means person holding the post of only University Professor/ Professor, Reader, and Lecturer and such sanctioned posts in



the teacher's grade on the basis of regulations issued by the U.G.C. from time to time;

Provided, that notwithstanding the said substitution in Section-2(v), the action taken in respect of working Demonstrators appointed before 18-09-1975 on the post sanctioned before 01-01-1973 with the concurrence of Bihar Public Service Commission or Bihar State University Service Commission shall not be affected by this substitution.”

From the bare perusal of the aforesaid, it is apparent that except for Demonstrators who were appointed before 18.09.1975 on the post sanction before 01.01.1973, all other Demonstrators have been excluded from the deputation of teacher.

The contention of learned counsel that the petitioner would fall in the category of ‘such sanction posts in the teacher grade’ is also found to be without any basis.

A logical reading of Clause (v) of Section 2 shows that the teacher has been defined to be mean as Professor, Reader and Lecturer and besides such sanctioned posts in the teacher’s grade would therefore mean the grade available to Professor, Readers and Lecturer and all. Admittedly, the grade of the petitioner as Demonstrator is not similar to that of Lecturer.

In view thereof, contention of learned counsel for the petitioner is not sustainable.



Accordingly, the claim of the petitioner to continue in service after attaining age of 62 years is not made out.

The writ petition stands dismissed.

(Sanjeev Prakash Sharma, J)

Anand Kr.

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

