

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.958 of 2021

Govind Mandal Son of Late Ram Charitra Mandal Resident of D.A.V. School
North Street, Chuna Bhatti, Sadhugachi, P.S.- Lasmisagar, District-
Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.
4. The Registrar, Lalit Narayan Mithila University, Darbhanga.
5. The Finance Officer, Lalit Narayan Mithila University, Darbhanga.
6. The Principal, M.R.M. College, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh, Adv.
For the Respondent/s	:	Mr. Lalit Kishore (AG)
For LNM University	:	Mr. Md. Nadim Seraj, Adv.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 25-04-2022 Heard Mr. Shashi Bhushan Singh, learned counsel
for the petitioner and Mr. Md. Nadim Seraj, learned counsel
appearing for Lalit Narayan Mithila University.

2. The petitioner has challenged the impugned letters
dated 06.11.2019 (Annexure-4) and dated 07.09.2020
(Annexure-6) by which the petitioner has been superannuated
with retrospective date with effect from 31.08.2016 whereas,
admittedly, the petitioner has retired upon completion of age of
62 years on 30.11.2019.

3. Learned counsel for the petitioner, referring to



Annexure-8 and relying upon the judgment dated 28.01.2021 passed in CWJC No. 17693/2008 submits that in identical fact, Co-ordinate Bench of this Court, after taking into consideration the statute framed by the University *visa-a-vis* the Government order to the effect that the maximum service period of an employee under any condition would not exceed 44 years, directed the University to pay legitimate retiral dues from the date of superannuation upon attainment of 62 years.

4. The relevant part of the order of this Court passed in Annexure-8 is quoted hereinbelow for ready reference:-

“ The first thing is to be noted that as per the University Act and statutes framed there under, the date of superannuation is fixed as the date on which a staff completes the age of 62 years. In the present case, as noted above, on completion of age of 62, petitioner superannuated. There is no provision in the Act or the statutes framed there under by which it has been directed that the maximum the service period under any condition would not exceed 44 years. In view of these two facts, it cannot be said by any stretch of imagination that the petitioner over stayed beyond superannuation and that too wrongly. The age of superannuation being 62, petitioner did retire, in fact, at the age of 62 years. Another aspect I would like to point



*out here that it is not open to the University to urge that the petitioner was wrongly appointed prior to attaining majority i.e., age of 18 years. Moreso, after 44 years of service, such an issue cannot be permitted to raise. In this regard, I may refer to a Division Bench judgment of this Court since reported in **1995 (1) PLJR 183 (Mokhtar Ahmad V. Bihar State Road Transport Corporation & Ors.)** wherein similar view has been taken.*

There is yet another aspect of the matter. Petitioner worked only upto the age of 62 and not beyond that. Work having been taken by the University, University cannot be permitted to deny full payment for the work done.

State cannot deny the legitimate due to its employees merely on technicality. There is no denial that the petitioner duly worked and if that be so, it cannot be said that the work was gratuitous in any manner. Thus, in my view, the writ petition must succeed. University is directed to clear all the retiral dues of the petitioner within two months from today treating the petitioner to have superannuated on attainment of age 62 years and treating it not to be a case of over stay as, in fact, the petitioner had not over stayed.

The Writ petition is accordingly allowed.”

5. Relying upon the aforesaid order in the case of



L.N. Mithila University, another Co-ordinate Bench of this Court in CWJC No. 17693/2008, on similar facts, quashed the impugned order of superannuation from the retrospective effect and directed the University to pay the retiral dues to the employee.

6. On the other hand, learned counsel appearing for University submits that the date of birth of petitioner is 19.11.1953 and he joined the service on 01.09.1972. Accordingly, it is evident that the petitioner joined the service at the age of 14 years which is not permissible in law.

7. Having heard learned counsel for the parties and taking into consideration the aforesaid two judgments on similar set of facts and the second judgment is in relation to the same University, in my opinion, the impugned orders at Annexure-4 & 6 cannot sustain and the same are quashed.

8. The Respondent university is, accordingly, directed to pay all the retiral dues of the petitioner on attainment of age of 62 years within a period of two months from the date of receipt/production of a copy of this order.

(Anil Kumar Sinha, J)

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