

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1111 of 2019

In

Civil Writ Jurisdiction Case No.13260 of 2012

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Mukesh Prasad Singh S/o Sahdeo Prasad Singh Senior Scientist Cum Associate Professor And Incharge Micro Nutrient Scheme, Rajendra Agricultural University, Pusa, Samastipur

... .. Appellant/s

Versus

1. The then Rajendra Agricultural University (Now Dr. Rajendra Prasad Central Agricultural University) through its Registrar having office at Pusa, Samastipur.
2. The Vice Chancellor, R.A.U. (Now Dr. Rajendra Prasad Central Agricultural University), Pusa, Samastipur.
3. The Director Administrator, R.A.U. (Now Dr. Rajendra Prasad Central Agricultural University), Pusa, Samastipur.
4. The Controller, R.A.U. (Now Dr. Rajendra Prasad Central Agricultural University), Pusa, Samastipur.
5. The State of Bihar through Agricultural Production Commissioner, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sri Niwas Jha, Advocate
For the University	:	Mr. D.K. Sinha, Sr. Advocate
		Mr. C.M. Singh, Advocate
For the Respondent/s	:	Mr. Sarvesh Kumar Singh, AAG-13
		Mr. Aryaachint, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PURNENDU SINGH)

Date : 24-11-2022

Heard the parties.

Brief facts of the case are that the appellant was appointed as Junior Scientist-cum-Assistant Professor vide Notification dated 23.01.1987 and he had joined on 13.02.1987



at Irrigation Research Station, Madhepura. The appellant was promoted as Senior Scientist-cum-Assistant Professor on 27.07.1998. Thereafter, in the year 2000, the appellant was transferred from Madhepura to Regional Research Station, Agarwarpur, Saharsa and from there he was transferred to the Department of Soil Science Rajendra Agricultural University, Pusa and joined on 01.06.2009.

The Rajendra Agricultural University, Pusa was rechristened into Rajendra Prasad Central Agricultural University, with effect from 07.10.2016, as a result of the Bihar Agricultural University Act, 1987 being repealed and is now governed by Central Act i.e., Rajendra Prasad Central Agricultural University Act, 2016. Under the University Act, there is provision for two pension schemes cum retirement benefits, firstly CPF and Gratuity and secondly UGPF cum Pension cum Gratuity.

Options were invited from the employees by the erstwhile Rajendra Agricultural University, Pusa and its units in the year 1990, 1995, 1996 and 2008 but the Appellant did not opt for the pension cum gratuity cum UGPF Scheme and remained in C.P.F Scheme. As per the stipulations made in the letter dated 21.02.2008, options were sought from employees to



be exercised through their Controlling Authority at the Rajendra Agricultural University, Pusa, to opt for one of the two aforesaid pension schemes within one month of the issuance of the said letter. However, the Appellant failed to submit his option in time, hence he continued under the C.P.F scheme by which he was covered earlier. The Controlling Authority had forwarded the name of the appellant, for pension-cum-gratuity-C.P.F Schem and the same was received on 24.04.2008, much later after time stipulated in letter dated 21.02.2008 and consequently, the name of the Appellant was not included in pension scheme.

The Appellant being aggrieved by the action of the University, filed writ petition bearing C.W.J.C. NO. 13260 of 2012 *inter-alia* praying for following reliefs:

“That this is an application for issuance of a writ of mandamus to command the Respondents to include appellant under Pension Scheme of the University entitling him to full pension and full gratuity and U.G.P.F on superannuation with compound interest and not to throw him under the contributory Provident Fund Scheme and the Respondents may be granted any other relief and the cost of this proceeding.”

Learned counsel appearing on behalf of the appellant submitted that the Appellant like other similarly situated Professor made representations for shifting him from CPF



Scheme to UGPF on 15.04.2004 with a reminder dated 16.06.2008. Thereafter, appellant made his representation before the concerned Authority on 02.12.2010 and 02.09.2011. The University, by letter dated 26.09.2011, having duly considered the representation of the appellant, had requested the State Government to include the appellant in pension-cum-gratuity-cum-C.P.F Scheme but the same was rejected in further communication dated 22.10.2011 sent by the State government, wherein the name of the appellant's was not included in the list attached which contained the name of those who had opted for pension-cum-gratuity-cum-C.P.F Scheme. The Appellant, aggrieved by the communication in letter dated 22.10.2011, filed detailed report before the concerned respondent challenging the action of the respondent on the ground that the appellant was not given opportunity nor any reason has been assigned for rejection of his candidature for availing the benefit of the pension-cum-gratuity-cum-C.P.F Scheme.

Learned counsel further submitted that learned Single Judge has not taken note of the above facts and has rejected the claim of the appellant on the basis of pleading made in the counter affidavit filed on behalf of the Rajendra Agricultural University, Pusa and the State Government, stating therein that



the appellant had not opted for pension-cum-gratuity scheme either in the year 1990, 1995, 1996 or in the year 2008. The Learned Single Judge, while rejecting the claim of the appellant, has not taken note of the fact that the appellant had in fact opted for the pension-cum-gratuity-cum-C.P.F Scheme in the year 2004 with a reminder on 16.06.2008, thereafter, he had made several representations including those made on 02.12.2010 and 02.09.2011. The respondent University vide order dated 26.09.2011 and further communication dated 22.10.2011 had made request for consideration of the claim of the appellant.

Per Contra learned counsel appearing on behalf of the respondent University submitted that appellant did not opt for Pension-cum-Gratuity-cum-C.P.F-scheme in the year 1990 or 1995 or 1996 or lastly in the year 2008. The Appellant had failed to avail the opportunity even after the office order dated 21.02.2008 was passed which provided one month time period from the date of its issuance, to make submissions with respect to the two schemes of retiral benefits as provided in the University Act. The appellant had failed to submit his application on time resulting into his continuation under the C.P.F. Scheme by which he was covered earlier.

Learned counsel appearing on behalf of the State



adopting the submission made by the learned counsel appearing on behalf of the University submitted that the Controlling Authority of the appellant had forwarded the name of the appellant to the University on 24.04.2008 after the stipulated period that is 21.02.2008, hence the case of the petitioner was not considered.

Heard the learned counsel for the respective parties.

The admitted facts of the case are that the appellant had joined on 23.01.1987 as Junior-Scientist-cum-Assistant Professor and subsequently, he was promoted and has superannuated.

At the time of joining the service on 23.01.1987, the Appellant was covered under the CPF Scheme. The option for making a choice of a particular retirement pension scheme from among the two types of retiral benefit schemes provided for in the University Act, was invited from the employees of the Rajendra Agricultural University, Pusa and its units as early as in the year 1990, 1995, 1996 and 2008, but the appellant could not avail any of the the opportunities for switching over to Pension-cum-gratuity-cum-C.P.F Scheme within a stipulated period of time. The Appellant also failed to reap the benefits of the letter dated 21.02.2008 which provided one month time to



make submissions. The University had received the option of the appellant in pension-cum-gratuity-cum-C.P.F. Scheme on 24.04.2008, after much delay from the stipulated time.

We are of the opinion that the order of the Learned Single Judge is well considered and requires no interference.

The present appeal is accordingly dismissed.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

minu/aditya

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