

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3937 of 2023

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Kailashpati Prasad Son of Late Brajkishore Lal, resident of Village- Patepur,
P.S.- Patepur, District- Vaishali.

... .. Petitioner/s

Versus

1. The Honble Chancellor of the Universities of Bihar Raj Bhawan, Patna.
2. The State of Bihar through its Principal Secretary, Education Department, Bihar, Patna.
3. Kameshwar Singh Darbhanga Sanskrit University, Darbhanga through its Registrar.
4. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Dharbhanga.
5. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Dharbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Saket Kumar, Advocate
For the University	:	Mr.Deepak Kumar, Advocate
For the Respondent/s	:	Mr.Rajeev Ranjan, AC to GP 20

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 27-07-2023

Heard Mr. Saket Kumar, learned counsel appearing on behalf of the petitioner; Mr. Deepak Kumar, learned counsel for the University and Mr. Rajeev Ranjan, learned AC to GP 20 for the State.

2. The petitioner has filed the writ petition for the following reliefs:-

“(i) Issuance of appropriate writ/writs, order/orders, direction/directions to the respondent authority/authorities concerned for the payment of all the retiral benefits and other consequential benefits if any for which the petitioner is found to be entitled for from the date he had retired from the post he was holding, any other benefits of financial upgradation by whatsoever abbreviation it is being termed such as ACP etc. and interest on all the benefits from the date the petitioner is found to be entitled/eligible as per the



interest rate applicable in the present case on all the benefits whether pre-retiral or post retiral which is due and on which the authority/authorities concerned have not taken action in spite of representation made by the petitioner.

(ii) For any other relief/reliefs for which the petitioner may be found to be entitled to in the facts and circumstances of the present case.”

3. Learned counsel appearing on behalf of the petitioner

submits that the petitioner had retired on 29.02.2016, while he was posted as Aadeshpal (Peon) Sri Ram Prakash Sanskrit College, Patepur affiliated to Kameshwar Singh Sanskrit University, Darbhanga. The pensionary benefit including ACP etc., as mentioned in paragraph no.1 of writ petition, has not been given to him till date.

4. Learned counsel further submits that the petitioner's case is covered by the law laid down by the Hon'ble Apex Court in the case of *D.S. Nakara & Others Vs. Union of India* reported in *(1983) 1 SCC 305*, in which it has been held that non-payment of pensionary benefit is denial of fundamental right of the petitioner and is in violation of Article 300A of the Constitution of India.

5. Learned counsel appearing on behalf of the State informs this Court that the fund has already been released and credited into the account of the University and it is up to the University to see that why petitioner has not been paid dues, as claimed by him.



6. Learned counsel appearing on behalf of the University informs this Court that no fund has been released by the State Government into the account of the University. Learned counsel further informs that the Registrar of the University has informed that the steps are being taken to make payment of all the admissible retiral dues, as claimed by the petitioner, within a period of six weeks.

7. Considering the rival submissions made by the parties as well as the fact that the petitioner had retired in the Year, 2016 and in spite of lapse of more than seven years, no retiral dues have been paid to him. This Court deprecates the manner in which the Vice-Chancellor of the University has treated the retired employee of the University by not making him dues amount of the retiral benefits including the pension. The Hon'ble Apex Court has observed that pension is neither a bounty nor a matter of grace depending upon the sweet-will of the employer, nor an *ex gratia* payment.

8. This Court in ***CWJC No. 6852 of 2021 (Lilawati Mishra vs. the State of Bihar and Ors.)*** vide order dated 11.05.2022 has taken into consideration the issues regarding disbursement of retiral benefits. The apposite paragraph nos.67 and 68 in this regard are reproduced hereinafter:



“67. Hon'ble, the Supreme Court has, as discussed above, held in several judgments that salary and equally post retiral benefits, which have been duly earned, are rights vesting in such employee. Denial of wages and post retiral benefits in the instant case is a classical case of infringement of Article 21, owing almost entirely to the indifferent attitude of the State towards its employees and *former employees*. In *M/s Shantistar Builders* (supra), the three primary actions of human existence have been listed, and in *D. K. Yadav* (supra), livelihood is recognized as a facet of Article 21.

68. The State, in its myriad of functions, is not only an employer but is also a lawmaker. The lawmaker has stipulated various methods to regulate employment, balancing the interest of both the employer and the employee, conceiving redressal mechanisms to ensure timely resolution of disputes, and evolving ways to protect the vulnerable party in a particular transaction. In the instant case and many other such cases, the State itself has laid waste to its own rules and regulations- calling into question the very basis of such laws and regulations.”

9. At this stage, learned counsel appearing on behalf of the University submitted that he will suggest the Vice Chancellor to take steps for making payment of retiral dues to the petitioner under different heads within a week, in peculiar facts of the case.

10. In case of failure, the Vice-Chancellor of the University will be liable to make payment of the retiral dues which has been claimed by the petitioner in the present case from his own pocket.



11. With the above observations/directions, the present writ petition is disposed of.

12. There will be no order as to costs.

(Purnendu Singh, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	28.07.2023
Transmission Date	

