

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8877 of 2020

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Someshwar Singh Son of Late Anirudh Singh Resident of Flat No. 205, Raj Mahal Apartment, New Bahadurpur, Bazar Samiti Road, Police Station-Bahadurpur, Post Office-Rajendra Nagar, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Higher Education Department, Patna.
2. The Director, Higher Education, Education Department, Government of Bihar, Patna.
3. The Vice Chancellor, Patna University, Patna.
4. The Registrar, Patna University, Patna.
5. The Finance Officer, Patna University, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Uday Chand Prasad, Adv.
For the Respondents	:	Mr. J.K. Roy, SC-13
		Mr. Rajendra Kumar Giri, Adv.
		Mr. Ajay, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

10 19-08-2024 Heard learned counsel for the parties.

2. This writ petition has been filed for the following
reliefs:

“(i) For issuance of writ in the nature of certiorari for quashing of part of order dated 25.06.2020 whereby it has been notified and shown that the petitioner would be retiring from the services of the University on 30.06.2020 upon attaining the age of 62 years.

(ii) For issuance of writ in the nature of certiorari for quashing of Letter No. 838 dated 08.08.2020 issued by Registrar,



Patna University, Patna whereby it was held that the petitioner is holding the post of Class 3rd Lab Incharge, Geology Patna University, Department, Patna and accordingly he has been retired after attaining the age of 62 years.

(iii) For issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned Respondent authorities in the Education Department of the state Government as well as the University to treat the petitioner as teachers while working as Demonstrator in Geology Department in P.G., Patna University, Patna under the University in terms of the provisions contained under section 2 (v) of the Bihar State Universities Act, 1976 as existed prior to the amendment of the said provision by section 2 of the Bihar State Universities (Amendment and Validation) Act, 2012.

(iv) For issuance of a declaration holding that in view of the fact that the petitioner had been re- designated as Demonstrator from prior to 05.10.1991 in the services of the University, he is entitled to be treated as teacher in terms of the provisions contained under section 2 (v) of the Bihar State Universities Act, 1976 as existed prior to its amendment by Section 2 of the



Bihar State Universities (Amendment and Validation) Act, 2012.

(v) For issuance of writ, direction to Respondents to petitioner on continue the post the of Demonstrator till the age of 65 years.

(vi) For issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned Respondent authorities in the Education Department of the State Government as well as the University to extend all the consequential benefits in favour of the petitioner while treating him as teacher working in the services of the University and accordingly, also extend the benefit of age of superannuation of teachers as per section 67 (a) of the Bihar State Universities Act, 1976, according to which the age of retirement of University teachers has been prescribed as 65 years by a decision taken by the concerned authorities in the Education Department of the State Government.

(vii) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.”

3. The issue raised in the present writ petition is no



more res integra. Initially, the Demonstrators were treated as teachers but subsequently by amendment in Bihar State Universities Act, the Demonstrators were excluded from the definition of the teacher. The issue was taken to the Supreme Court. The Apex Court approved the Bihar State Universities (Amendment and Validation) Act, 2012. However, the Apex Court has granted certain protection to the Lab Assistant, who has been designated as teacher vide order dated 27.02.2027, which is quoted herein below:

“We have heard learned counsel for the parties at great length.

These appeals arise out of challenge to the Bihar State Universities (Amendment and Validation) Act, 2012 (Bihar Act 22 of 2012) which has been upheld by the High Court by the impugned order. We do not find any ground to interfere with the view taken by the High Court in upholding the said Act. We however make it clear that the present status rank and pay of the appellants will not be disturbed. If any lab assistant has been given designation of demonstrator which he continues to hold till date, it will not be withdrawn. They not be entitled to any further benefit in conflict with the impugned Act.

In view of the above, the appeals are disposed of. No costs.



Pending application if any, shall also stand disposed of.”

4. The respondent-authorities are directed to pay all consequential benefits and dues (if any) pending to the petitioners on the post of Demonstrator, which they are entitled to, till the age of 62 years, within a period of 10 weeks from the date of receipt/production of a copy of this order.

5. Accordingly, this writ petition stands disposed of.

6. Pending applications, if any, shall also stands disposed of.

(Anjani Kumar Sharan, J)

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