

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1614 of 2021

1. Kaushal Kishor Thakur, Son of Late Dhrub Narayan Thakur Resident of Mohalla-Neem Pokhar, Near Old Bus Skand (D.R.C. Road), Ward No. 04, Kadirabad, Police Station-L.N.M.U., Darbhanga, District-Darbhangha at Present Posted as Demonstrator in the Department of Chemistry, C.M. Science College, Darbhanga.
2. Uma Shankar Mishra Son of Late Kamleshwari Mishra Resident of Village-Misharpur, Post Office-Sultanpur, Kumaitha, Police Station Bath, District-Bhagalpur, at Present Posed as Demonstrator in the Department of Zoology, C.M. Science College, Darbhanga.
3. Madan Mohan Chaudhry Son of Sri Surya Kant Chaudhry, Resident of Mohalla-K.M. Tanik, Ward No. 47, Laheriasarai, Police Station-Laheriasarai, District-Darbhangha. at Present Posted as Demonstrator, in the Department of Botany, M.K. College, Laheriasarai, District-Darbhangha.
4. Prakash Narayan Singh Son of Late Ganga Prasad Singh Resident of Village and Post Officer-Narpat Nagar, Police Station-Sakri District-Madhubani at Present Posted as Demonstrator, in Department of Geography, K.S. College, Laheriasarai, District-Darbhangha.

... .. 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, L.N. Mithila University, Darbhanga
4. The Registrar, L.N. Mithila University, Darbhanga
5. The Finance Officer, L.N. Mithila University, Darbhanga
6. The Principal, C.M. College Darbhanga.
7. The Principal, K. S. College, Laheriasarai, Darbhanga.
8. The Principal M.K. College, Laheriasarai, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Uday Chand Prasad, Adv.
For the State		Mr. Kameshwar Kumar, GP-17
For the University		Mr. Bindhyachal Rai, Adv.

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 Notice/letter contained as Memo No. 509-11/2020 dated 07.08.2020 issued by Principal, C.M. Science College, Darbhanga and for quashing of Notice/Letter contained as Memo No. 254 dated 26.08.2020 issued by the Principal, K.S. College Laheriasarai, Darbhanga whereby petitioner No. 1, 2 and 4 have been informed that they are going to retire from service on 31.12.2020, 31.01.2021 and 31.01. 2021 respectively after attaining the age of 62 years.

(ii) For issuance of writ in the nature of Mandamus direction to the respondents to treat the petitioners as teachers while working as Demonstrator in the College 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 3 of the Bihar State Universities (Amendment and Validation) Act, 2012.

(iii) For issuance of a declaration holding that in view of the fact that the petitioners had been redesignated as Demonstrator from prior to 05.10.1991 in the services of the University, they are entitled to be treated as teachers in terms of as 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.

(iv) For direction to the Respondents to continue the petitioners on the post of Demonstrator in their respective Colleges till the age of 65 years as the post of Demonstrator is a teaching post and a teacher should be retired after attaining the age of 65 years as direction of Hon'ble Apex Court passed in Case of Durga Prasad Singh and others Versus The State of Bihar and others.

(v) For direction to the Respondents to extend all the consequential benefits in favour of petitioners while treating them as teacher working in the services of the University.

(vi) Any other relief/reliefs that the petitioners 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)

devendra/-

U			
---	--	--	--

