

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9052 of 2022

Dr. Manjushree Jha, D/o Late S.N. Choudhary, R/o Maujama Kothi, Adampur Chowk, S.C.B. Road, P.S.- Adampur (Kotwali), Town and District- Bhagalpur.

... .. Petitioner/s

Versus

1. The T. M. Bhagalpur University, Bhagalpur through it Registrar.
2. The Vice- Chancellor, T.M. Bhagalpur University, Bhagalpur.
3. The Pro Vice- Chancellor, T.M. Bhagalpur University, Bhagalpur.
4. The Financial Advisor, T.M. Bhagalpur University, District- Bhagalpur.
5. The Registrar, T.M. Bhagalpur University, Bhagalpur.
6. Finance Officer, T.M. Bhagalpur University, District- Bhagalpur.
7. Dr. Niranjana Prasad Yadav Son of Asesar Prasad Yadav, at present the Registrar, T.M. Bhagalpur University, Bhagalpur.
8. Mr. Shailesh Chandra Chakravorty S/o Name not known to the petitioner, Sectional Officer (Pension/ Claim/ Accounts/ Legal), T.M. Bhagalpur University, Bhagalpur.
9. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna.
10. The Deputy Secretary, Department of Education, Govt. of Bihar, Patna.
11. The Director, Higher Education, Dept. of Education, Govt. of Bihar, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 18166 of 2021

Dr. Sadanand Jha, Son of Late Pandit Kamla Kant Jha, R/o Mohalla Burhanath (Near Man Mandir), P.S. Adampur (Kotwali) Town and District - Bhagalpur.

... .. Petitioner/s

Versus

1. The T.M. Bhagalpur University Bhagalpur through its Registrar.
2. The Vice- Chancellor, T.M. Bhagalpur University, Bhagalpur.
3. The Financial Advisor, T.M. Bhagalpur University, Bhagalpur.
4. The Finance Officer, T.M. Bhagalpur University, Bhagalpur.
5. The Head, University Department of Commerce, T.M. Bhagalpur University, Bhagalpur.
6. The State of Bihar, through the Principal Secretary, Education Department , Government of Bihar, New Secretariat, Patna.
7. The Director, Higher Education Department, Government of Bihar, New



Secretariat, Patna.

8. The Pay Verification Cell, Education Department, Govt. of Bihar State Text Book Publishing Corporation Building, Buddh Marg, Patna through its Authorized Officer.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 9052 of 2022)

For the Petitioner/s : Mr. Purushottam Kumar Jha, Advocate
Mr. Ram Naresh Jha, Advocate
Mr. Bishwash Vijeta, Advocate

For the Respondent/s : Mr. Madhaw Pd. Yadaw, GP-23

(In Civil Writ Jurisdiction Case No. 18166 of 2021)

For the Petitioner/s : Mr. Purushottam Kumar Jha, Advocate
Mr. Ram Naresh Jha, Advocate
Mr. Bishwash Vijeta, Advocate

For the Respondent/s : Mr. Subhash Chandra Mishra, SC- 16

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 24-07-2025

Heard Mr. Purushottam Kumar Jha, learned Advocate for the petitioners and learned Advocate for the State.

2. Since the issue involved in both the writ petitions are one and identical based upon similar facts, with the consent of the parties, these matters are being taken up together and disposed of by this common order.

3. The petitioners are aggrieved with the notification no. 120 of 2023 dated 18.01.2023, issued by the respondent no.3 whereby and whereunder the petitioners along with other similarly situated teaching and non-teaching employees of the Fourth Phase Constituent Colleges have been terminated from the service of the respondent University. The action of the respondent authorities have been challenged, upon



various grounds, including the impugned order came to be passed without holding any regular departmental proceeding, unilaterally that too much after their retirement, which is wholly unsustainable in law, apart from beyond jurisdiction.

4. The claim of the petitioners is based on parity to that of Dr. Dilip Kumar Singh, who also being aggrieved with the notification no. 120 of 2023 dated 18.01.2023 preferred C.W.J.C. No. 5745 of 2025. A Learned bench of this Court on being found that termination of the services of the employee after retirement is contrary to service jurisprudence, set aside the impugned Notification qua the petitioner of the said case vide order dated 15.07.2025.

5. The aforesaid fact has not been refuted by the learned Advocate for the University.

6. It is noteworthy to state here that while considering identical issue in C.W.J.C. No. 13706 of 2023 (Chandra Kishore Sharma Vs. The State of Bihar & Ors.), wherein the erstwhile employee of the Water Resources Department was subjected to the termination and stoppage of pension, after four years and eight months of his retirement, this Court set aside the order of termination and pleased to observe as follows:



“10. xxx xxx xxx

Once an employee is allowed to superannuate unconditionally and all the retiral benefits and other dues have been sanctioned and when the employee is getting regular pension, the tie between the employer and employee would automatically severed; in absence of any pending departmental proceeding. Thus, in the opinion of this Court, the only remedy which had left with the State respondent authorities was the procedure available under the Bihar Pension Rules, 1950 but the same has not been done. The termination of the service of an employee after retirement is unknown to the legal jurisprudence in absence of any departmental proceeding on mere show cause notice. Once the relationship of the employer and employee comes to an end, there is no question of termination of service of an employee, that too on the ground that his initial appointment was bad in law. The delinquent employee would be deemed to be in service, although he has reached the age of superannuation, only if a valid departmental proceeding had been initiated. The departmental proceeding can not be said to be initiated merely on issuance of a show-cause notice. It is initiated only when a charge-sheet is submitted. It is to be noted that for termination of service, the procedure should be in conformity with Article 311 (2) of the Constitution of India even if the



employee is not a civil servant, but a government servant.

11. Full Bench of this Court in **Shanbhu Sharan vs. State of Bihar & Ors.; 2000(1) PLJR 665** has held that even though the proceeding initiated in service period of an employee can be continued post retirement but the nature of punishment is different and no penalties as envisaged under the Bihar Government Servants (Classification Control and Appeal) Rules, 2005 can be imposed. Law is well settled, in this regard, no punishment order can be imposed with retrospective effect nor any punishment is inflicted on a retired employee as envisaged under 2005 Rules.”

7. The position stands clarified that once an employee superannuated and the retiral benefits and the pension have already been accorded, there is complete severance of the bond of employee and the employer relationship and no cause of action exists for continuance of the departmental proceeding by the efflux of time that too without following any procedure.

8. In view of the aforementioned legal position and in order to maintain uniformity, this Court is hereby set aside the notification no.120 of 2023 dated 18.01.2023, issued by the respondent no.3 (Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur) qua the petitioners.



9. So far the other grievance of the petitioners prayed for in their respective writ petitions, the petitioners shall approach before the Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur by filing a detailed representation with their due retiral benefits and arrears, which shall be considered and disposed of by a reasoned and speaking order preferably within a period of three months from the date of filing of such representation.

10. With the aforesaid observation and direction, the writ petitions stand disposed off.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2025
Transmission Date	NA

