

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20145 of 2018

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Smt. Bina Devi Wife of Late Parmanand Singh, Resident of D-17, Near Post Office, PUSA Post Pusa, District- Samastipur, Presently working as Junior Research Assistant, Agronomy, Dr. Rajendra Prasad Central Agricultural University, Pusa.

... .. Petitioner/s

Versus

1. Dr. Rajendra Prasad Central Agricultural University Pusa through its Registrar.
2. The Vice Chancellor, Dr. Rajendra Prasad Central Agricultural University, Pusa Samastipur.
3. The Registrar, Dr. Rajendra Prasad Central Agricultural University, Pusa Samastipur.
4. The Comptroller, Dr. Rajendra Prasad Central Agricultural University, Pusa Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vaidehi Raman Prasad Singh, Adv.
For the Respondent/s : Mr. Vijay Shankar Upadhyay, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 20-03-2025

Heard Mr. Vaidehi Raman Prasad Singh, learned Advocate for the petitioner and Mr. Vijay Shankar Upadhyay, learned Advocate for the Dr. Rajendra Prasad Central Agricultural University.

2. The petitioner has approached this Court seeking a direction upon the respondent University to treat the petitioner under pension scheme of the University and to accord all the consequential retiral benefits after her superannuation.

3. Adverting to the facts narrated in the writ petition,



learned Advocate for the petitioner contended that the petitioner was duly appointed in the Rajendra Agricultural University on the post of Attendent under order no. 389/RAU, Pusa dated 28th May, 1980. Subsequent thereto, the petitioner was promoted to the post of Laboratory Assistant vide order dated 01.02.1984 issued under the signature of the Vice Chancellor. The petitioner on being found eligible, further promoted to the post of Field Oversear long back on 10th November, 1995 and thereafter, to the post of Junior Research Assistant on 01.07.2014. These facts are not in dispute.

4. It is the specific contention of the petitioner that from the date of joining in the University, the petitioner had never rendered any option for Contributory Provident Fund (hereinafter referred to as "CPF"). But, notwithstanding the aforesaid fact, contribution amount for CPF had been deducted from the salary of the petitioner. In the meanwhile, in the year 2016, Rajendra Agricultural University became Central University and renamed as Dr. Rajendra Prasad Central Agricultural University and the employees working under Rajendra Agricultural University became employees of Dr. Rajendra Prasad Central Agricultural University.

5. Referring to clause 16.1 (b) of the statute of



Rajendra Agricultural University, it is contended that in terms thereof, the petitioner is entitled to the pension scheme, since she had never given option for subscribing to the CPF. Taking this Court through the decision passed by learned co-ordinate Bench of this Court in case of ***Ramjanam Prasad Vs. Rajendra Agricultural University & Ors, (CWJC No. 2377 of 2006)***, it is next contended that the issue has been crystallized that the employees, who have never opted for CPF shall be deemed to be under the pension scheme.

6. Reiterating the observation of the Court rendered in ***Ramjanam Prasad*** (supra), the subsequent co-ordinate Bench of this Court, in an identical facts, had also extended the benefit of pension scheme in the case of ***Dr. Vijay Kumar Jaiswal Vs. The Bihar Agriculture University & Ors., (CWJC No. 12667 of 2012)***, which came to be disposed of on 25.07.2017. The issue, as discussed hereinabove, has finally come up for consideration before the Hon'ble Apex Court in the case of ***Mukesh Prasad Singh Vs. The Then Rajendra Agricultural University (Now Dr. Rajendra Prasad Central Agricultural University & Ors.), SLP (C) No. 4644 of 2023***, wherein, the Court in its penultimate paragraph has held as follows:

*9. At the outset, Chapter 16 of
the University Statute (extracted*



hereinabove) that was in force at the time of the appellant's appointment clearly stipulates the applicable scheme of retiral benefits for the University's employees. Chapter 16.1(a) provides that scheme for pension, General Provident Fund and Contributory Provident Fund shall be as mentioned in the chapter. Chapter 16.1(b) (i) states that employees appointed by the respondent-University "will be entitled to pension provided they do not opt for subscribing to the Contributory Provident Fund". Chapter 16.1(c) provides for various kinds of pension and gratuity and Chapter 16.1(e) provides that those who are not admitted to the Contributory Provident Fund shall get the benefit of General Provident Fund. These provisions clearly show that the default retiral scheme applicable to the University's employees is General Provident Fund-cum-pension-cum-gratuity, unless the employee has specifically opted for the Contributory Provident Fund scheme.

10. The Office Order dated 21.02.2008, which was issued to implement the provisions of Chapter 16 of the University Statute, also has the same effect. It allows the employees to opt for two kinds of Contributory Provident Fund Schemes within 1 month from issuance,



and Clause (IV) provides that the employees who do not exercise their option for either scheme “shall be included in the Pension Scheme in terms of the Chapter (16.1) of the Act”. Therefore, even under the Office Order, non-exercise of any option to opt into the Contributory Provident Fund automatically entitles the University employees, including the appellant, to be included in the General Provident Fund-cum-pension-cum-gratuity scheme.

11. In fact, the High Court has taken note of this position while disposing of writ petitions with similar prayers by other employees of the respondent-University. In the decision of Arjun Kumar v. State of Bihar and ors, a learned single judge of the High Court allowed the writ petition by holding that the option was to be exercised only by those who wanted to be included in the Contributory Provident Fund Scheme, while other employees would be covered by the General Provident Fund-cum-pension-cum-gratuity scheme as per Chapter 16.1 of the University Statute. The relevant portion of the order is extracted:

“It is evident from the narration of facts that earlier as per un-amended Statutes, 1976 the only provision was with respect to CPF



for all the employees of the University. However, by the amendment to Clause 16.1 of the Statutes as per Notification No. 1685 dated 17.4.1979 the scheme for pension was introduced in the University along with benefit of gratuity and G.P.F. The Statutes were very clear that all employees appointed by the University would be entitled to pension except those who have opted for subscribing for CPF. There is nothing ambiguous regarding the said point in the Statutes. In the said circumstances, it was futile action on the part of the University that they have repeatedly sought for exercise of option with respect to employees of the University who have not got the benefit of pension scheme. As a matter of fact, the option was to be exercised only by those who wanted to be in the CPF scheme. From the facts and materials on the record it is the clear stand of the petitioner that he never exercised the option for CPF which fact could not be contradicted by the University by producing anything to show that the petitioner had opted for CPF. The only conclusion, therefore, is that in terms of Clause 16.1 of the Statutes the petitioner would be entitled to benefit of pension.”

The High Court has also allowed other writ petitions with similar prayers on a similar reasoning.

12. Since it is an admitted fact that the appellant did not exercise his option under the Office Order dated 21.02.2008, he did not opt in for the Contributory Provident Fund Scheme.



Therefore, as per the University Statutes and the Office Order, he is entitled to retiral benefits under the General Provident Fund-cum-pension-cum-gratuity scheme. The High Court wrongly dismissed his writ petition on the ground that he did not exercise his option. In fact, being included under the second retiral scheme is a consequence of non-exercise of option provided under the Office Order. Further, once the High Court granted relief to similarly placed persons, it ought not to have dismissed the appellant's writ petition.

emphasis supplied

7. Though learned Advocate for the University primarily refuted the contention of the petitioner, however, confronted with the order of the Hon'ble Apex Court rendered in the case of **Mukesh Prasad Singh** (supra) has fairly accepted the position of law.

8. In view of the discussions made hereinabove and the settled legal position, this Court finds that the issue has already been set at rest by the Apex Court and it does not require any adjudication at present.

9. Accordingly, this Court direct the respondent University to consider the case of the petitioner for benefit of pension scheme and accord all the consequential benefits,



preferably within a period of twelve weeks, from the date of receipt/production of a copy of this order.

10. Suffice it to observe that if the petitioner has already received the amount under the CPF, the same shall be adjusted while according the benefit under the pensionary scheme.

11. The writ petition stands allowed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.03.2025
Transmission Date	NA

