

(2023) 10 PAT CK 0063

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 11293 Of 2014

Arjun Prasad Singh

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 30-10-2023

Acts Referred:

Citation : (2023) 10 PAT CK 0063

Hon'ble Judges : Partha Sarthy, J

Bench : Single Bench

Advocate : Md. Najmul Hodda, Jitendra Kumar Roy, Hitesh Suman, Sanjeev Kumar

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner and learned counsel for the Bihar Agriculture University.
2. The petitioner has filed the instant writ application praying for quashing the order dated 14.11.2013 issued under the signature of the Director Administration, Bihar Agriculture University, Sabour, Bhagalpur (respondent no.5) whereby treating the petitioner not to be an employee of the University, the petitioner was ordered to superannuate at the age of 60 years. Further direction was given for fixation of the pension accordingly.
3. Learned counsel for the petitioner submits that the petitioner was appointed on 15.3.1991 on the post of cleaner (Khalasi) in the Department of Agriculture and he gave his joining in the office of Special Officer-cum-Special Deputy Agriculture Director, Ara. He was granted promotion on the post of clerk on 22.6.1974. Subsequently his services were transferred on 29.2.1992 by the Director Agriculture, Bihar, Patna to the Bihar Agriculture College, Sabour under the Rajendra Agriculture University where he worked till his retirement on 28.2.2014.
4. Learned counsel for the petitioner further submits that pursuant to the

transfer of his service in the University, he was given time bound promotions as any other employee of the University and as such under the University Act, he was entitled to continue in service till he attained the age of superannuation ie 62 years as any other University employee. It is further submitted that as would be evident from the letter dated 30.5.2013 (Annexure-6) written by the Principal of the Bihar Agriculture College, Sabour, the petitioner was entitled to continue in service till the age of 62 years.

5. Learned counsel appearing for the University placing reliance on the counter affidavit filed on behalf of the University submits that the facts not in dispute are that the petitioner was a permanent Government employee when he joined the office of the Project Executive Officer, Special Extension Block, Sabour being controlled under the Bihar Agriculture College, Sabour. It is submitted that the option of absorption as employee of the University was only available to the temporary Government employees whose service was transferred to the Rajendra Agriculture University and not to permanent Government employee like the petitioner herein. Further final orders with respect to payment of GPF and GPS claims have already been issued vide letter dated 13.8.2014 by the Directorate of Provident Fund (Finance Department), Bihar, Patna.

6. With respect to the reliance placed by learned counsel for the petitioner on the letter dated 30.5.2013 of the Principal, Bihar Agriculture College, Sabour as contained in Annexure-6, learned counsel for the University submits that the Principal in the said letter has committed an error of record on the very face of the letter insofar as he has described the petitioner as a temporary Government employee. However, further reference is made to the contents of the letter to submit that even from the same it is clear that the petitioner had not exercised his option for being absorbed as an employee of the University, which in any case was not available to the petitioner who was a permanent Government employee and instead the same was available only to temporary Government employees.

7. Having heard learned counsel for the parties and taking into consideration the material on record, the Court finds substance in the submissions made by learned counsel for the University. It has categorically been contended in the counter affidavit filed on behalf of the respondent- University that the petitioner was a permanent Government employee and so far as the absorption as an employee of the University is concerned, the same was available only to a temporary Government employee on their exercising the said option. In addition, no reply to the said counter affidavit has been filed on behalf of the petitioner. Even from the letter of the Principal as contained in Annexure-6, it clearly transpires that the petitioner has wrongly been described therein as a temporary Government employee, however it is not in dispute that no option was exercised by the petitioner.

8. Taking into consideration the facts and circumstances of the case, the material on record and the submissions made, the Court finds no merit in the instant writ application and the same is dismissed.