

(2011) 07 PAT CK 0164
In the Patna High Court
Case No : LPA No. 410 of 2008

Bhagwan Prasad Yadav

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 07-07-2011

Acts Referred:

Bihar State Universities Act, 1976 — Section 67

Citation : (2012) 1 PLJR 809

Hon'ble Judges : T. Meena Kumari, J;Akhilesh Chandra, J

Bench : Division Bench

Judgement

1. Learned Sr. Counsel has argued that the order of the University directing the appellants to retire on the date mentioned in the order of the University cannot be sustained for the reason that Section 67 of the Bihar State Universities Act, 1976 prescribes the age of retirement of the personnel as 62 years, and hence, the appellant cannot be directed to retire on the date mentioned in the order. However, contention has been raised by the University as with regard to the fact that all the appellants were not appointed at the age of 18 years at the time of their initial appointment and they had already completed 44 years of service. But, however, learned Sr. Counsel appearing on behalf of the appellant has very fairly submitted that the question with regard to retirement was not raised with reference to the fact as to whether they have completed 62 years of service or not. But however, as their appointments were made before the age of 18 years as per date of birth given by the appellant, and therefore, after completion of 62 years of age they have been asked to retire, and therefore, the order cannot be found fault with.

2. We had the occasion to go through the date of birth of the appellant, who is petitioner No. 4 in the writ petition i.e. 4.10.1945, and accordingly, he is to retire after completion of 44 years of service.

3. The learned counsel appearing on behalf of the respondents has contended that in pursuance of the judgment laid down by the Full Bench of this Court

reported in Ragjawa Narayan Mishra Vs. Chief Executive Officer, Bihar Rajya Khadi Gramoudyog Board and Others, , the University has got right to ask the question to retire after completion of 44 years. Accordingly, the appellant was directed to retire on 31.1.2007.

4. In view of the law laid down by the Full Bench, we are of the opinion that the appellant has no right to continue in service beyond the date of retirement or after completion of 44 years.

5. We make it clear that the University must pay all the retirement benefits to the appellant in accordance with rules as early as possible. With the above observation this appeal stands disposed of.