
(1989) 02 PAT CK 0024

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 7337 of 1988

Dinesh Singh and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 03-02-1989

Acts Referred:

Bihar Agriculture University Act, 1987 — Section 2(xxviii), 24(4), 26

Citation : (1989) 37 BLJR 520 : (1989) PLJR 458

Hon'ble Judges : N.P. Singh, J; N. Pandey, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

N.P. Singh, J.—This writ application has been filed on behalf of the petitioners alleging that as respondent No. 4, Dr. Parmeshwari Prasad Jha (hereinafter referred to as "the said respondent") has completed 60 years of age on 31st of August, 1988 he cannot continue as Director, Research, Rajendra Agriculture University (hereinafter referred to as "the University").

2. There is no dispute that the said respondent in normal course would have superannuated having completed 60 years of age, but the stand of the respondent-University as well as of the respondent aforesaid is that he shall be deemed to be a teacher within the meaning of the Bihar Agricultural University Act, 1987 (hereinafter referred to as "the said Act"). It is an admitted position that if the said respondent is held to be a teacher within the meaning of the said Act he shall superannuate only after he completes 62 years of age in view of Statute 13.3.(2) of Chapter XIII of the Statutes of the Rajendra Agricultural University, That amended statute says as follows :-

Each Teacher of the University shall retire on superannuation on attaining the age of 62 years and each non-teaching employee of the University at the age of 60 years and thereafter no further extension of service shall be given.

The said respondent was appointed in the year 1948 as a Junior Research

Assistant. Later, he became Senior Research Assistant. On 4-8-1982 the said respondent was appointed as Director, Research, by the said University after the post was advertised and the said respondent was selected by the Selection Committee constituted by the University. As such, the whole controversy in the present application revolves round the question as to whether the petitioner shall be deemed to be a teacher within the meaning of Section 2(xxviii) of the Act. The expression "Teacher" has been defined as follows :-

(xxviii) "Teacher" means a person appointed or recognised by a University for the purposes of imparting instruction of conducting and guiding research or extension education and includes a person who may be declared by the Statutes to be teacher.

On a plain reading a person appointed by the University for the purposes of imparting instruction or conducting or guiding research shall be deemed to be a teacher.

3. On behalf of the petitioners it was pointed out that from bare reference to Section 24(4) and Section 26 of the Act it shall appear that a Director, Research, neither imparts any instruction nor conducts or guides any research so as to be held as a teacher within the meaning of Section 2(xxviii) of the Act. The relevant part of Section 24(4) of the Act is as follows :--

24. Other Officers of a University-

(1) ** ** *

(4) Director-

(i) The Director of Research shall be responsible for the direction and co-ordination of research programmes as laid down in Section 26 and efficient working of the Research stations.

Relevant part of Section 26 of the Act is as follows :-

26. Research-(1) Agricultural Research Programme shall be developed in a University from time to time and subject to the provisions of this Act and the Statutes, University shall carry on research directed to problems of agriculture and allied sciences for the purpose of aiding the development of the area of its jurisdiction in the State.

It was submitted on behalf of the petitioners that the Director, Research, may be responsible for any direction or-co-ordination of Research Programme as laid down in Section 26 of the Act, but neither under the provisions of the Act nor Statutes framed therein he conducts or guides any research. In this connection our attention was also drawn to Section 19, which enumerates the officers of the University and is as follows :-

19. Officers of the University :-The following shall be the officers of a University, namely :-

- (1) The Chancellor;
- (2) The Vice-Chancellor;
- (3) The Registrar;
- (4) The Comptroller;
- (5) The Deans;
- (6) The Directors; and
- (7) Such other person in the service of a University as may be declared by the Statutes to be the officers of a University.

It was submitted that as Directors have been shown as the officers of the University in Section 13 of the Act, it is apparent that they are only entrusted with the administrative functions of the University and have no connection whatsoever with imparting any instruction or conducting or guiding any research. As a first impression the submission on behalf of the petitioners appeared to be attractive but it cannot be overlooked that not only in the University but even persons appointed under the State Government against higher posts, have to perform administrative as well as field work. A principal of a college has to perform many administrative functions in respect of the college in question, but at the same time he can or has to impart instructions, conduct or guide research with the students. As such, only on the ground that the officer in question is entrusted with the administrative functions of co-ordinating the different activities of, the department or the institution, it cannot be held that he is not a teacher. Each case has to be examined on the materials brought on the record whether an officer has been entrusted only with administrative functions is in no way connected with the teaching in the college or the University. As such on the basis of the different provisions of the Act, Statutes or the materials produced before this Court in this application it has to be examined whether the said respondent having been appointed as Director, Research, shall be deemed to be a non-teaching employee of the University, his functions being only administrative in nature. Apart from Sections 84 and 86 referred to above, Clause 3.2(4)(a) of Chapter III of the Statutes of the University is also relevant in this connection, which is as follows :-

(4) Director of Research.-In addition to the duties specified in Clause (a) of Sub-section (4) of Section 24 of the Act, his duties shall be as follows :-

(a) to develop research in the University, to promote team work and inter-disciplinary collaboration to link up research by students with the research programmes of the University for the State and to co-operate and collaborate with the Director of Extension Education in extending the results of researches to the fields.

4. On behalf of the petitioner it was submitted that unless the Director, Research, imparts instruction or conducts and guides research, he cannot be held to be a

teacher within the meaning of the Act so as to derive the benefits of the amended Statutes fixing the age of superannuation at the age of 62 years. It is true that none of the sections or statutes, referred to above, says in so many words that the Director, Research, shall impart instruction to the students or conduct or guide research along with the students of the University. But whether the definition of teacher should be interpreted in its strict sense, has already been examined by a Full Bench of this Court in the case of Kamla Kant Roy and Ors. v. The State of Bihar and Ors. 1985 PLJR 77. In that case this Court had to examine whether the Assistant Research Officers of the respondent-University shall be deemed to be teachers within the meaning of Rajendra Agricultural University Act, 1971. In that Act Section 2(xxv) defined the teacher as follows :-

2. In this Act, unless the context otherwise requires,-

(25) "teacher" means a person appointed or recognised by the University for the purpose of imparting instruction or conducting and guiding research or extension education and includes a person who may be declared by the Statutes to be a teacher.

The definition of teacher given in the 1971 Act and the present Act is almost the same. Speaking about the definition of teacher the Full Bench observed as follows : -

Now plainly enough Clause (25) is indicative of the clear legislative design to give an expanded meaning to the word "teacher" for the purposes of the Act and the things done subservient thereto. The very purpose of defining the word "teacher" in a widely couched language can leave little manner of doubt that the legislative intent here was not to constrict the meaning of the word but indeed to give it a wider and broader concept. It is plain that Clause (25) is not envisaging the word "teacher" in the narrow constricted sense of a person who actually teaches in a class room to his students face to face. The word "teacher" has been expansively given four distinct connotations here :

- (i) A person who imparts instruction.
- (ii) A person who conducts and guides research.
- (iii) A person who conducts and guides extension education.
- (iv) A person who may be declared by the Statutes to be a teacher.

I am of the view that because of the aforesaid definition and the wide ranging language employed it is unnecessary to labour the point that the Act has given an enlarged and expanded definition of the word "teacher". There appears no reason, therefore, to artificially construct it or confine it to the actual teaching in a class room face to face. It includes within its sweep three distinctly other categories including a deemed fiction of a declaration by the statutes of any person as a teacher even though he may not be remotely performing any duty even remotely analogous thereto. Therefore, reading Clauses (25) and (26)

together the phrase "University teacher" is obviously a wide ranging one.

Giving an expansive meaning of the expression "teacher" it was held that Assistant Research Officers shall be deemed to conducting or guiding research or extension education and, thus, come squarely within the definition of teacher. In that connection it was further pointed out:-

Herein, it is plain that the language employed by the statute should be paramount and the legislative intent must override any other considerations including those of common parlance with regard to the ordinary meaning of a "teacher" even if it were so. In my view, it is unjustifiable that even where the statute gives an expanded definition and expressly includes persons conducting or guiding extension education, the Court should ignore the same and confine it only to one branch of persons imparting instruction in class rooms alone. In the present case, I find no compulsive reason as to why the wide ranging concept of "teacher" under the Act and the statutes should be cut down to the narrow. If at all in a situation where it involves the grant of benefit to a class, it should be construed with liberality, rather than with such narrow strictitude as run counter to the legislative mandate itself.

This matter equally deserves examination from a larger and broader angle of vision in the context of agricultural education today. In many fields agricultural research and extension may be of greater and significant value than the mere imparting of instruction in a class room. It needs no great erudition to find that it is the results of agricultural research and extension work which have brought about the miracle of the green revolution within the country. Apparently, in recognition of its importance the Act recognises agricultural research and extension education at least as equivalent to teaching if not placing it at a higher pedestal. Therefore, to hold that conducting and guiding research and extension education cannot come within the ambit of teaching, even when expressly so defined u/s 2(26), would be in a way undervaluing the contribution of research and extension education in the agricultural field and degrading it inflexibly in comparison to teaching. I am unable to find any reason which would warrant such a result.

In view of the aforesaid judgment while examining as to whether the Director, Research shall be held to be a teacher within the meaning of Section 2 (xxviii) of the Act there is no scope for a liberal interpretation of the aforesaid expression or to limit it to persons, who are actually and factually imparting instruction to the students or are conducting or guiding research to the students or are associated with extension education. In my view, it will include within its expansive meaning of such persons who are connected with imparting of instruction or with conducting or guiding research or extension education. In this background when Section 24(4)(i) referred to above, says that the Director of Research shall be responsible for the direction and co-ordination of research programme as laid down in Section 26 of the Act, there is no escape from conclusion that a Director, Research, is directly connected with the research programme of the University,

which he is expected to guide and co-ordinate. He may have some administrative functions as well but the framers of the Act have made him over all incharge of the research programme of the University and it cannot be said that he is not connected with the research, which is being conducted in the University either by the students or other employees of the University. I have already pointed out that Clause 3.2(4) (a) of Chapter III of the Statutes while enumerating the duties of Director of Research says that he has to develop research in the University and interdisciplinary collaboration to link up the research by students with the research programme of the University in addition to other duties specified in Clause (a) of Sub-section (4) of Section 24 of the Act. Now, when an officer is enjoined by the provisions of the Act and the Statutes to develop and co-ordinate the research being done by the students and other officers of the University and the research programme, can it be said that he is not connected with such research programme of the University and he is merely an administrator in the University so as to forfeit the right of being called a teacher of the University.

5. The learned counsel, appearing for the petitioner, laid much stress on the point that if the framers of the Act had treated Director, Research, as a teacher of the University, they would not have included the posts of Director in Section 19, which describes the Officers of the University. He also pointed out from Section 2(xxiii) of the Act where "Director" has been defined to mean and include Director of Research, Director of Extension Education and Director of Resident instruction. It was urged that once Director, Research, has been included in the definition of Director read with Section 19 of the Act he should be held to be just an officer of the University. If it was possible to give a strict and literal interpretation to the expression "teacher" as defined in the Act, perhaps, it was possible to accept the contention on behalf of the petitioner. But once the Full Bench, referred to above, has held in clear and unambiguous words after considering the provisions of the 1971 Act, which has been replaced by the present Act and the definition of teacher given in Section 2(25) is identical to the present definition of teacher in Section 2 (xxviii), an expansive meaning has to be given so as to include even persons who are connected with teaching although are not actually imparting instruction in the class room. Once an expansive interpretation is given to the expression "teacher" in the Act, it has to be held that Director, Research, is responsible for co-ordination of the research programmes of the University and, as such, he is connected with the research and shall be deemed to be a person who conducts and guides research, being over all incharge of the research programme of the University.

6. Accordingly, we hold that the respondent shall be deemed to be a teacher within the meaning of the Act and, as such, he is entitled to the benefits of the amended Statutes relating to the teachers of the University fixing the age of superannuation at the age of 62 years. This writ application fails but in the circumstances of the case, there shall be no order as to costs.

N. Pandey, J.

7. I agree.