

(2019) 10 JH CK 0078

In the Jharkhand High Court

Case No : Letter Patent Appeal No. 42 of 2018

Dr. Brajendra Mishra

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

Date of Decision : 24-10-2019

Acts Referred:

Jharkhand State University At, 2000 — Section 2(f), 2(v)

Citation : (2019) 10 JH CK 0078

Hon'ble Judges : Aparesh Kumar Singh, J;Kailash Prasad Deo, J

Bench : Division Bench

Advocate : Lakhan Chandra Roy, L.C.N. Shahdeo, Mithilesh Singh, Anil Kumar, Richa Sanchita, Radha Krishan Gupta

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the appellant, the State, the University and the Jharkhand Academic Council.
2. Appellant, who was a teacher in the Baidyanath Kamal Kumari Sanskrit College, Deoghar, had approached the Writ Court primarily for being treated as the teacher under Vinoba Bhave University (VBU), Hazaribag and entitled to the benefits of salary, retirement age of 65 years at par with other teachers of the University and post-retirement benefits.
3. The plea was strongly resisted by the University on the ground that the same relief stood denied by a co-ordinate Bench in W.P.(S) No. 549 of 2010 and W.P. (S) No.7491 of 2012 in the case of teachers of the same college claiming same benefit as the present petitioner. As per the stand of the University, this college after being upgraded as Inter College by the State of Bihar in 1980 has remained the same till date and have not been conferred the status of a degree college. Teaching and non-teaching employees of Inter College including the petitioner cannot equate themselves with the teaching and non-teaching employees of the University in terms of the definition of "College" under Section 2(f) of the

Jharkhand State University At, 2000. Salary of the teachers of inter colleges are provided by means of grant by the State Government released in favour of the University and thereafter in favour of the college which is affiliated to the University. Such payments are released to the employees of this college on the basis of provisional pay fixation by the State Government and on demand being made by the Principal of the College with the utilization certificate sent to the University. Such payment orders or release orders do not make the employees of the affiliated college like that of the petitioner as the employee of the University. U.G.C. Pay scale is not applicable to the affiliated colleges of the University as by the Human Resources Development Department letter no. 1188 dated 20.11.2010, the affiliated colleges have been excluded by the State Government. The University contended that employees of these affiliated colleges are not the employees of the University and cannot claim retirement benefits, as evident from the letter dated 19.05.2015 issued by the Registrar of the University specifically with respect to the affiliated Sanskrit Colleges including the present Baidyanath Kamal Kumari Sanskrit College, Deoghar. Learned Single Judge found that petitioner had not been able to produce the government notification / resolution under which teachers in affiliated Sanskrit Colleges can seek benefits of notification dated 26.12.2012. Petitioner could not establish himself as a teacher falling under the University for being entitled to pensionary benefits and extending the age of superannuation.

Aggrieved therefrom, present appeal has been preferred with similar grounds.

4. It is contended by learned counsel for the appellant that degree classes are also being run in the college. Appellant is therefore entitled to the enhanced retirement age of 65 years as a University employee since there cannot be two cadres in respect of similar employees.

5. During course of submission learned counsel for the respondent University and the State Government have referred to the judgment rendered by a co-ordinate Bench of this Court in the case of a teaching staff of the same Baidyanath Kamal Kumari Sanskrit College, Deoghar in L.P.A. No. 499 of 2017 dated 22.10.2018, who had also approached this Court with respect of the same relief i.e., post-retirement benefits at par with the teaching staffs of all different colleges of the University and retirement age of 65 years at par with other employees of the University. The co-ordinate Bench of this Court has after due consideration of the rival submission affirmed the judgment of the learned Writ Court and dismissed the appeal. It has also taken note of the provisions of Section 2(v) of the University Act 2000 defining "Teacher" and 2(f), which contained definition of "College". Three categories of colleges had been enumerated by the University, one being constituent college, whose expenses are fully borne by the State; affiliated colleges in respect of which the expenses are partly borne by the State and the institutes like the one in which the appellant was engaged i.e., Inter college to whom certain discretionary grant has been given by the State. The institute was not maintained by the University.

6. We find on comparison of the relief prayed for in the case of the present appellant that identical relief were prayed for in the other writ petitions. The case of the present appellant is covered by the judgment rendered by the co-ordinate Bench of this Court in L.P.A. 499 of 2017 in the case of Chintamani Karmhe. Even on independent consideration, appellant has not been able to distinguish his case from the case of Chintamani Karmhe and show any legal infirmity in the impugned order. As such, we do not find any reason to interfere in the impugned order passed by the learned Single Judge.

7. The appeal being devoid of merit is dismissed.