
(2002) 07 PAT CK 0130
In the Patna High Court
Case No : G.W.J.C. No. 16566 of 2001

Dr. Durgeshwari Prasad Sinha	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 09-07-2002

Acts Referred:

Citation : (2002) 4 PLJR 634

Hon'ble Judges : Shiva Kirti Singh, J

Bench : Single Bench

Advocate : Mayanand Jha, for the Appellant; Jai Shankar Barnwal, for TM Bhagalpur University, B.K. Jha, S.C. Jha for S.K. University, Pravin Kumar, for State of Bihar and Shyam Kishore Sharma, for State of Jharkhand, for the Respondent

Final Decision : Allowed

Judgement

Shiva Kirti Singh, J.—Heard the parties.

2. Petitioner was a Professor in S.P. College, Dumka which was earlier under Tilka Manjhi Bhagalpur University but since the creation of Sidhu Kanhu University Dumka on 10.1.1992 the college in question at Dumka became a constituent unit of Sidhu Kanhu University, Dumka and thereafter, Petitioner retired on 31.12.1992. Initially, no funds etc. had been made available for the newly created University at Dumka hence, after retirement the retiral benefits were determined and paid by the TM Bhagalpur University till July 2001. The question of apportionment of the liability of pension between the aforesaid two Universities was not raised particularly because it was the State of Bihar which was ultimately providing the funds. However, with bifurcation of the State of Bihar and creation of the State of Jharkhand since 15th November, 2000, controversy was bound to arise and ultimately, Bhagalpur, University stopped payment of post retiral benefits to the Petitioner. Petitioner has impleaded both the Universities and also the State of Bihar and the State of Jharkhand and is seeking issuance of appropriate writ or direction to the concerned University to

continue paying his post retiral benefits and pension in accordance with law.

3. The issue as to which of the University and ultimately which of the State shall bear the burden of post retiral benefits of the Petitioner is no longer res integra. In similar circumstances by order dated 11.2.2002 in W.P. (S) 5891 of 2001 (Bharti Prasad Thakur v. Sidhu Kanhu University, Dumka and Ors.) a Bench of Jharkhand High Court held that the Petitioner of that case must get pension from Sidhu Kan(sic) University and the State of Jharkhand. The State of Jharkhand was directed to provide sufficient funds to the Sidhu Kanhu University in order to pay pension to the Petitioner in that case. The said decision of the Jharkhand High Court was followed by another Bench of the same High Court and by order dated 16.5.2002 passed in W.P. (S) 2046 of 2002 (Dr. Shaileshwar Nath v. The State of Jharkhand), the same view was reiterated. Of course, in both the orders it was pointed out that the issue of apportionment and adjustment of liability between State of Bihar and Jharkhand has not been decided in either of the cases.

4. In the facts of the case, this Court is also not inclined to go into the issue of apportionment of liability between the two States as a result of bifurcation of State of Bihar since 15th November, 2000. However, there is no difficulty in holding that liability to pay the pensionary benefits in the case of Petitioner is that of Sidhu Kanhu University and the State of Jharkhand. Following the directions in both the aforesaid cases, the State of Jharkhand is directed to provide sufficient fund to the Sidhu Kanhu University and take all necessary steps to ensure that SK University is in a position to pay the pensionary benefits of the Petitioner for the period after July 2001. The Sidhu Kanhu University is issued directions to the same effect and it is further directed, to ensure that payment of pension is started in case of Petitioner within a period of three months from the date of production/communication of a copy of this order before the concerned authority of the University. The arrears of pension since July 2001 shall also be paid to the Petitioner within one month thereafter along with interest at the rate of 10 per cent per annum from July 2001 till the date of payment.

5. This writ application is allowed accordingly. There shall be no order as to costs.