

**(2018) 03 PAT CK 0062**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 2882 of 2014

Gauri Shanker Singh

APPELLANT

Vs

The B.R.A. Bihar University & Ors

RESPONDENT

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**Date of Decision :** 13-03-2018

**Acts Referred:**

**Citation :** (2018) 03 PAT CK 0062

**Hon'ble Judges :** AHSANUDDIN AMANULLAH

**Bench :** Single Bench

**Advocate :** Raghav Prasad ;Madhukar Mishra;D. Mukherjee;Arup Kumar Chongdar

**Final Decision :** Dismissed

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## **Judgement**

1.Heard learned counsel for the petitioner; State and B.R.A. Bihar University (hereinafter referred to as the ½University½).

½2. The petitioner has moved the Court for the following relief:

½That this writ application is being filed for issuance of a writ in the nature of mandamus asking and commanding the respondents to pay to the

petitioners Gratuity amount of Rs. 10 lakhs in stead of Rs. 3.50 Lakhs in the same way as has been made applicable to the officials of the Judicial

Services of the State Government contained in Para-3(4) of the Resolution No.-14303 dated 22.12.2010 of Finance Department, Government of

Bihar by setting aside the cut off date mentioned in Resolution No.-1674 dated 16.08.2012 and (Annexure-5) and Resolution No.-774 dated

27.05.2013 (Annexure-6) of the Finance Deptt. Regarding enhancement of Gratuity to the maximum limit of Rs. 10 lakhs instead Rs. 3.50

lakhs.½

¶3. In sum and substance, the contention of the petitioner is that when the recommendation to enhance the amount of gratuity from Rs. 3.5 lakhs

to 10 lakhs has been made effective from 01.01.2006 with regard to members of the judicial service, the same should not be denied to an

employees of the University in whose case it has been made payable from 01.04.2007.

¶4. Learned counsel for the petitioner submitted that without there being a finding that the Bihar Judicial Service is superior to the other

services, in the case of Government and University employees, where the payment of gratuity of Rs. 10 lakhs has been made effective from

01.04.2007, in the case of members of the Bihar Judicial Service, the same benefit being payable to them with effect from 01.01.2006 is

unjustified and, thus, the Court may hold that even the petitioner, being a University employee should also get the benefit of Rs. 10 lakhs gratuity,

though he superannuated on 31.01.2006. It was further submitted that the State has not come out with any notification that the Bihar Judicial

Service was different and higher to the service under the State Government or the University and, thus, such distinction and differentiation is

arbitrary.

5. Learned counsel for the State submitted that the State had taken a decision to grant such benefit only with effect from 01.04.2007 to its

employee but in view of the order passed by the Hon'ble Supreme Court, the matter has been reconsidered only with regard to the Bihar

Judicial Service and a decision has been taken that such benefit would be granted with effect from 01.01.2006.

¶6. Having considered the matter, the Court does not find any merit in the writ application. The petitioner has not been able to point out any

issue of discrimination for the simple reason that pension is only payable as per the policy of the employer. Different services cannot be equated to

each other. Service under the State, University and Judicial Wings are different and separate from each other. This is one aspect of the matter. The

other equally important aspect is that as per the policy of the State, benefits are payable including pensionary benefits. Gratuity being a post retiral

benefit, has to be governed as per the scheme of the State. Moreover, in the present case, the scheme itself indicates that such decision in the case

of members of the Bihar Judicial Service has been taken in view of the decision of the Hon'ble Supreme Court of India. Thus, when there is a positive judicial order in favour of any person or class of persons, the benefit flowing out of said judgment cannot be said to be either discriminatory or arbitrary. The Court has not been shown any material to indicate that such decision of the State Government is not pursuant to the decision of the Hon'ble Supreme Court. Once a benefit is granted, pursuant to an order of the Court, grant of the same by way of implementation of the order cannot in any view be said to be discriminatory or unjustified or arbitrary.

7. Accordingly, the writ petition stands dismissed.