

(2007) 11 PAT CK 0078
In the Patna High Court
Case No : CWJC No. 5654 of 2005

Raj Grihi Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 22-11-2007

Acts Referred:

Citation : (2008) 3 PLJR 613

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajay Kr. Tripathi, J.—Heard counsel for the parties. Petitioner is not satisfied with the pension which he is getting from the Jai Prakash University, Chapra where he worked as a teacher after his appointment in the University in the year 1974. Petitioner entered the service of the University after having successfully competed in the open recruitment which was held in the year concerned. He superannuated from the University on 28.2.2002. He does not dispute that thereafter all his retirat dues have been settled and he is getting pension regularly.

2. Petitioner is before this High Court because he still has vivid memories of his past service which he had rendered under a school known as Tajpur High School situated at Manjhi, Saran. His case in the writ application is that he worked as a teacher in the said school from 1.9.1963 to 24.8.1974, thereafter he moved to the service of the University. In the writ application he has made out a case that he is entitled to a pension from the school also because he had rendered ten years of service. According to him since he had not tendered any resignation, therefore, the ten years of service is good enough for him to demand pension from the institution.

3. Some basic facts, however, must be noted in the present case. There is no dispute that the petitioner initially was a school teacher working in the same

school but in furtherance to an advertisement, which was issued by the Bihar University Service Commission, petitioner appeared and successfully competed in the said recruitment. He joined the University on the post of Lecturer which was a fresh appointment. It is not the case that he carried his past service in any manner to the said University. It is also not the case of the petitioner that his services were either summoned by the University or he went on deputation.

4. Petitioner wants to take advantage of the fact that more than 30 odd years have gone past and he can safely juggle around with words to make out a case that it was not a case of resignation in absence of proper records. He submits that he was relieved from the school. He has also annexed the service book which shows that the petitioner was duly selected and appointed by the Bihar University Service Commission and has gone to join in the year 1974. The college in question assigned to him was Nand Lal Singh College, Jaitpur at Daudpur, Saran. The service book categorically records that this was a permanent appointment by virtue of which the petitioner left the school.

5. The question which arises, therefore, in the present case is whether ten years of service rendered in the school was good enough to beget him a second pension?

6. Learned counsel for the petitioner to enforce his argument in support of the said claim relies on Bihar Non-Government School Employees Provident Fund-Insurance and Pension Rules. 1962. He draws my attention to Rule 19 of the said scheme, which states as under:-

"19. No claim to pension shall be admitted in the following cases.-(a) When an employee is appointed for a limited time only, or for a special duty; on the completion of which he is to be discharged.

(b) When an employee is appointed temporarily.

(c) When an employee is appointed part-time.

(d) When an employee is dismissed or removed for misconduct, insolvency or inefficiency."

7. According to the petitioner since his case does not fall within any of these Rules, therefore, his claim for pension cannot be ignored. Learned counsel for the petitioner conveniently ignores the earlier part of the Rule in Chapter V, which is Rule 11. Rule 11 states as under:-

"11. An employee shall be eligible for pension or gratuity, as the case may be.-

(1) On retirement by reason of his attaining the age of superannuation whether the retirement takes effect immediately or after the close of the academic year, or

(2) On voluntary retirement after completing 30 years qualifying service, or

(3) On discharge due to invalidation on medical grounds, or

(4) On discharge due to abolition of the post."

8. If the two Rules are read together it is apparent that to claim any pension in the service which the petitioner has rendered in the school he has to first satisfy the conditions of Rule 11. Rule 19 cannot be read in isolation to enable the petitioner to make out a case that since his walking out of the institution does not fall within one of these conditions, therefore, a case for grant of pension is made out. It is yet another issue whether the said Rule on which the petitioner is relying has any application in the present case. Petitioner is not a contributor to the triple benefit scheme, which was in vogue in 1962. There was no pleading to that ex-tent. What he is claiming today is regular liberalized pension which is available to all Government employees of the State.

9. This Court is of the opinion that the present litigation is a litigation which should be termed "post retirement blue litigation". These are innovations and inventions of the petitioner after, retirement to claim pension from the school which is otherwise not available to him under the law as he resigned/quit the school voluntarily for greener pastures. The effort of the petitioner to get a second pension is totally misplaced and misguided and has absolutely no legal backing or sanction. This writ application is dismissed as having no merits.