

(2008) 10 PAT CK 0006
In the Patna High Court
Case No : CWJC No. 12752 of 2002

Ram Prasad Yadav

APPELLANT

Vs

The Jai Prakash University and Others

RESPONDENT

Date of Decision : 15-10-2008

Acts Referred:

Citation : (2008) 10 PAT CK 0006

Hon'ble Judges : Navaniti Pd. Singh, J

Bench : Single Bench

Advocate : A.B. Sinha, Shalini Raut, Shashi Shekhar Tiwary, for the Appellant;
Ajay for Jai Prakash University, for the Respondent

Final Decision : Dismissed

Judgement

Navaniti Pd. Singh, J.—Petitioner was appointed as peon in Rajendra Collage, Chapra (sic- missing) paid only 60% of his pension and other retirement benefits have been withheld. As no reason for such an adverse action was being disclosed, this writ petition was filed in the year 2002. The stand taken by the respondent-University is that in the year 1999, the State had directed that the services of an employee cannot exceed 44 years and such employee should be retired accordingly. Petitioner had allegedly worked for more than 44 years and as such for the excess period, he was not entitled to full wages. Enquiry was being conducted in this regard for the purposes of recovery of excess paid wages but it is not in dispute that the petitioner did not work a day beyond the age of 62 years. It is thus undisputed that the petitioner superannuated on completing the age of 62 years.

2. Heard the parties and with their consent this writ petition is being disposed of at this stage itself.

3. The first thing is to be noted that as per the University Act and statutes framed thereunder, the date of superannuation is fixed as the date on which a staff completes the age of 62 years. In the present case, as noted above, on

completion of age of 62, petitioner superannuated. There is no provision in the Act or the statutes framed thereunder by which it has been directed that the maximum the service period under any condition would not exceed 44 years. In view of these two facts, it cannot be said by any stretch of imagination that the petitioner overstayed beyond superannuation and that too wrongly. The age of superannuation being 62. petitioner did retire, in fact, at the age of 62 years. Another aspect I would like to point out here that it is not open to the University to urge that the petitioner was wrongly appointed prior to attaining majority i.e. age of 18 years. More so, after 44 years of service, such an issue cannot be permitted to raise. In this regard I may refer to a Division Bench judgment of this Court since reported in 1995(1) PLJR 183 (Mokhtar Ahmad vs. Bihar State Road Transport Corporation & Ors.) wherein similar view has been taken.

4. There is yet another aspect of the matter. Petitioner worked only upto the age of 62 and not beyond that. Work having been taken by the University. University cannot be permitted to deny full payment for the work done.

5. State cannot deny the legitimate due to its employees merely on technicality. There is no denial that the petitioner duly worked and if that be so, it cannot be said that the work was gratuitous in any manner. Thus, in my view, the writ petition must succeed. University is directed to clear all retiral dues of the petitioner within two months from today treating the petitioner to have superannuated on attainment of age 62 years, and treating it not to be a case of overstay as, in fact, the petitioner had not overstayed. The writ petition is accordingly allowed.