

**(2014) 11 PAT CK 0088**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No.9019 of 2011

Sri Ram Das Mandal

APPELLANT

Vs

Tilka Manjhi Bhagalpur University

RESPONDENT

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**Date of Decision :** 05-11-2014

**Acts Referred:**

**Citation :** (2015) 1 BLJud 107

**Hon'ble Judges :** R.M. Doshit, CJ.

**Bench :** Single Bench

**Advocate :** Mr. Radha Raman Verma, Advocate, for the Petitioner; Mr. Rajendra Kumar Giri, Advocate, for the Respondent Nos. 1 to5

**Final Decision :** Disposed Off

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## **Judgement**

R.M. Doshit, C.J. (Oral) - Although this Petition is pending before this Court for last four years, the respondent-Tilka Manjhi Bhagalpur University (hereinafter referred to as "the University") has not thought it fit to file counter affidavit or to contest the writ petition.

2. The petitioner, a retired employee of the University has approached this Court under Article 226 of the Constitution to challenge the action of the University in retiring the petitioner from service with effect from 31st December 1999 under office order no.35/2002 dated 11th July 2002 and to challenge the communication dated 7th January 2010 sent by the Principal, T. N. B. College, Bhagalpur to the Registrar of the University.

3. It is not in dispute that the petitioner entered the service of the University as Laboratory Bearer on 10th January 1955. He continued to serve till 2002. It appears that petitioner's date of birth had not been entered in the official record. Presuming that the petitioner had entered the service on attaining the age of 18 years and the age of superannuation being 62 years, the petitioner could not have served for more than 44 years. However, for the reasons unknown to the Court, the petitioner continued to serve up to 2002 i.e. for around 47 years. In

my opinion, the action of the University in retiring the petitioner effective from 31st December 1999 on completion of 44 years" service is not questionable.

4. The communication dated 4th January 2010 and the calculation at Annexure-3 (page-21) record a mere statement of facts and that the petitioner had served for three years beyond the age of superannuation for which he had been paid a salary of Rs.2,00,393/-. Nothing in the counter affidavit or in the accompanying documents suggest that any amount has been recovered from the petitioner for the salary paid to him during the additional years from 1st January 2000 till July 2002. The petitioner's representation at Annexure-4 also does not refer to any recovery made from the petitioner. The representation speaks about revision of pay/pension in the revised scale.

5. In my view, Petition is totally misconceived. No cause of action is made out. Petition is, accordingly, disposed of.

6. It is clarified that this judgment shall not preclude the petitioner from claiming/ receiving the amount of revised pension, if under the prevalent law the petitioner is entitled to the revision of pension.