

The Tilka Manjhi Bhagalpur University and Others Vs Kamal Nath Mishra and Another

Court: Patna High Court

Date of Decision: June 28, 2011

Hon'ble Judges: T. Meena Kumari, J; Akhilesh Chandra, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. This Letters Patent Appeal has been filed by the University against the order passed by the learned Single Judge on 25.2.2008 in C.W.J.C. No.

2588 of 2005. In the writ petition grievance of the Respondent-Petitioner was regarding inaction of the Appellants-Respondents in not paying the

retrial benefits for which Respondent No. 1-Petitioner had worked in the post of Assistant and is also claiming the same to be a sanctioned post

and pension able. Services of the Respondent No. 1-Petitioner was terminated on 22.7.1968 with effect from 3.3.1965. Subsequently, he was

reappointed on 2.1.1981 on temporary basis for six months and continued to discharge his duties to the post of Assistant in temporary capacity

until he attained the age of superannuation on 31.1.2000. However, learned Single Judge has observed that as the Respondent No. 1-Petitioner

was allowed to work in a sanctioned post, his pension and other terminal dues are to be calculated by the Respondents-Appellants from 2.1.1981

to till the date of his superannuation. Learned Single Judge has also observed that if Respondent No. 1-Petitioner, during his service period from

13.1.1962 to 3.3.1963, had contributed any amount in the provident fund and remained in not withdrawing the same, he shall also be paid the

amount lying to his credit under the head provident fund while settling his terminal dues. Learned Counsel for the Appellants has submitted that

Respondent No. 1-Petitioner was only appointed on temporary basis and, as such, he cannot claim any retrial benefits.

2. Learned Counsel for the Respondents submits that Respondent No. 1-peti-ttoner had worked against a sanctioned post even though he was

appointed on temporary basis. As such, he is very much entitled for his retrial benefits. In view of the reasoning given by the learned Single Judge,

we are not inclined to interfere with the order dated 25.2.2008. Accordingly, this Letters Patent Appeal stands dismissed.