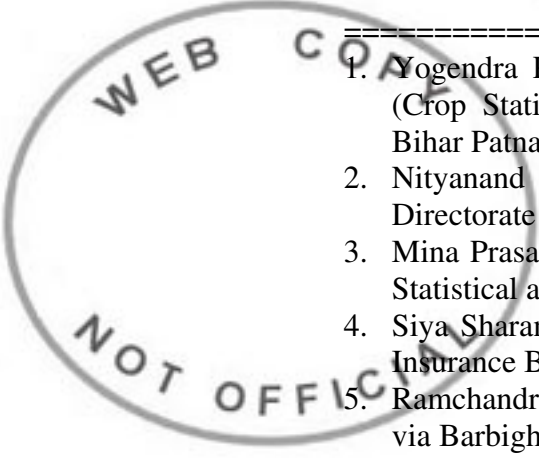


IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10126 of 1998

- 
1. Yogendra Prasad Singh S/o Late Saryug Singh, Junior Statistical Assistant (Crop Statistical Reforms Branch) Directorate of Statistical and Evaluation, Bihar Patna
 2. Nityanand Singh S/o Late Saryug Singh, Junior Statistical Assistant Branch Directorate of Statistical and Evaluation, Bihar Patna
 3. Mina Prasad S/o Late Kamta Prasad, Junior Statistical Assistant Directorate of Statistical and Evaluation, Bihar Patna
 4. Siya Sharan Prasad, S/o Late Yadu Prasad, Junior Statistical Assistant (Crop Insurance Branch) Directorate of Statistical and Evaluation, Bihar Patna
 5. Ramchandra Prasad Sinha, resident of village- Chati Malama PO Bari Malawa via Barbigaha district Nalanda PS Sarmera
 6. Ram Krishna Pandit S/o Late Sri Etwari Pandit, Junior Statistical Assistant (Halrith Branch) Directorate of Statistical and Evaluation, Bihar Patna
 7. Saroj Kr. Upadhyay S/o Sri Ramadhar Upadhyaya, Vill+PO Manjharia PS Buxar district Buxar, Bihar

.... Petitioners

Versus

1. The State of Bihar through the Commissioner-cum- Secretary, Department of Planning & Development, Government of Bihar
2. Commissioner-cum- Secretary, Department of Personnel and Administrative Reforms, Government of Bihar
3. Finance Commissioner, Government of Bihar
4. Director, Statistics & Evaluation, Department of Planning & Development, Government of Bihar
5. Joint Secretary, Finance Department, Government of Bihar
6. Joint Secretary, Department of Planning & Development, Government of Bihar

.... Respondents

with

Civil Writ Jurisdiction Case No. 7943 of 2000

Rameshwar Prasad Singh S/o Late Jagdish Singh, resident of Shivpuri, LIC Colony, Shastri Nagar, Patna-23

.... Petitioners

Versus

- 1 The State of Bihar through the Commissioner-cum- Secretary, Department of Planning & Development, Government of Bihar
- 2 Commissioner-cum- Secretary, Department of Personnel and Administrative Reforms, Government of Bihar
- 3 Finance Commissioner, Government of Bihar
- 4 Director, Statistics & Evaluation, Department of Planning & Development, Government of Bihar
- 5 Joint Secretary, Finance Department, Government of Bihar

6 Joint Secretary, Department of Planning & Development, Government of Bihar

7 Commissioner-cum-Secretary, Department of Forest & Environment, Government of Bihar

.... Respondents

Appearance :

(In both cases)

For the Petitioners : M/s. Banwari Sharma, Shiv Kumar, S. Sharma, & Mangal Lok Prabha, Advocates

For the Respondents: Mr. Sudhir Kumar, AC to AAG 2

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 17-03-2015

A very short point is involved in the present writ applications. The petitioners were working as Junior Statistical Assistant in the Directorate of Statistical and Evaluation, Planning and Development department, Government of Bihar. They are no more in service and have retired after attaining the age of superannuation. In substance they have grievance against the decision of the State Government, as contained in annexure-11 to the writ application, dated 14.02.1998, by which the Directorate has taken a decision to cancel the first Time Bound Promotion given to the petitioners earlier vide memo No. 2249 dated 30.09.1995. The cancellation of first Time Bound Promotion is on the ground that they had already been given regular promotion from the post of "Compiler" and, therefore, under the Time Bound Promotion scheme, they were not entitled for such promotion.



Mr. Banwari Sharma, learned counsel for the petitioners, has submitted that before issuance of the impugned decision, the petitioners were not given an opportunity to explain and no show cause notice was given to them. He has placed reliance upon an order of this court dated 04.10.1999 passed in CWJC No. No. 5623 of 1998 in order to contend that, in similar circumstance, this court quashed the State Government's decision to recover the amount paid to the employees upon grant of first Time Bound Promotion holding that the action without giving an opportunity of being heard was violative of principles of natural justice. He has also placed reliance upon a recent decision of the Supreme Court in case of *State of Punjab & Ors. v. Rafiq Masih (Whitewasher)* reported in *2015 (1) PLJR SC 261* and has contended that it would be too harsh for the petitioners if recovery is made from their entitlements or even otherwise after their superannuation, without affording them an opportunity of being heard.

Learned counsel appearing on behalf of the State has opposed the relief sought for in the present writ application and has contended that the petitioners were not entitled for first Time Bound Promotion, which was wrongly given to them against the scheme for grant of Time Bound Promotion since they were

already given regular promotion. He, however, has not disputed the fact that before issuance of the impugned order No. 100 dated 14.02.1998, no notice was given to the them.

This is not in dispute that by now all the petitioners have retired after attaining the age of superannuation. In view of above, I find substance in the submission made on behalf of the petitioners that before taking any decision, adverse to the interest of the petitioners, it was obligatory upon the State respondents to have issued show cause notice to the petitioners. That having not been done, the action cannot be sustained. Accordingly, the order No. 100 dated 14.02.1998 issued by the Directorate of Statistical and Evaluation, Department of Planning and Development, Government of Bihar is quashed.

These writ applications are, accordingly, allowed.

(Chakradhari Sharan Singh, J)

BKS/-

U			
---	--	--	--