

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1240 of 2012
IN
Civil Writ Jurisdiction Case No. 5611 of 2012**

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1. United India Insurance Company Ltd. Through its Chief Managing Director, 24, Whites Road, Chennai – 600014.
 2. The Deputy Manager, United India Insurance Company Ltd., 24, Whites Road, Chennai – 600014.
 3. The Assistant General Manager, United India Insurance Company Ltd., Regional Office, Chauranghee Road, Kolkata.
 4. The Chief Regional Manager, United India Insurance Company Ltd., Patna Regional Office, Patna.
 5. The Regional Manager (Personal Dept.) United India Insurance Company Ltd., Having Office At – R- Block, Patna
 6. The Divisional Manager, United India Insurance Company Ltd., Divisional Office at Suraksha Bhawan, Akharaghat Road, Muzaffarpur
 7. The Divisional Manager, United India Insurance Company Ltd., Bhagalpur.
 8. The Senior Branch Manager, United India Insurance Company Ltd., Branch Kapasiya Chowk, P.O.-Refinery Township- Begusarai.

.... Respondents-Appellants.

Versus

Sita Ram Singh, S/O Late Rambali Singh, R/O Village- Mahisoor, P.S.- Jandaha, District- Vaishali, Retired Assistant, United India Insurance Co. Ltd., Branch Kapasiya Chowk, Refinery Town Ship, Begusarai

.... Petitioner-Respondent/s

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Appearance :

For the Appellant/s : Mr. Ram Chandra Lal Das, Advocate.

For the Pvt. Respondent/s : Mr. Raj Kumar Rajesh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 26-06-2015

Heard learned counsel for the United India Insurance Company Limited-appellants and learned counsel for the private contesting respondent, who was the writ petitioner.



2. This appeal is directed against the judgment and order dated 05.04.2012 passed in C.W.J.C. No. 5611 of 2012, whereby and whereunder, the learned Single Judge directed the United India Insurance Company Limited to grant promotion to the writ petitioner in terms of the promotion policy for Supervisory, Clerical and Subordinate Staff, 2008 and in particular paragraph 25A thereof.

3. Learned counsel for the appellants submits that as per the rules aforesaid, a person who had completed 25 years of service in the cadre of Assistant and who had completed 55 years of age and who had not received a single promotion, he would be considered for promotion as of the cut off date of preceding year. There was relaxation of five years of service experience in relation to Ex-servicemen. The writ petitioner was an Ex-serviceman. Thus, 25 years of service in his case would be 20 years. Learned counsel for the appellants points out that the writ petitioner had joined service on 06.09.1989. Thus, he would be completing 20 years of service on 05.09.2009 and he would be retiring on 30.09.2010. When the case of promotion was being considered in 2009 with effect from the cut off date 31.12.2008, he was obviously not completing 20 years of service. Thus, his case was rightly rejected, though he had completed more than 55 years of age.



4. Learned counsel for the appellants then points out that before the next exercise in 2010 was taken for promotion with cut off date 31.12.2009 could be taken up the writ petitioner had already superannuated on 30.09.2010. Promotion is not as a matter of right. What is available, his right to be considered for promotion. It is always subject to the vacancies and subject to other procedures. Thus, not having been eligible when exercise had been undertaken in the year 2009, by the time, exercise was taken up in the year 2010 with cut off date 31.12.1010, the writ petitioner had admittedly superannuated. The writ court could not issue a direction for deemed promotion in any event.

5. Having heard the learned counsel for the appellants and learned counsel for the respondent-writ petitioner, we are satisfied that the learned Single Judge committed an error of law. Firstly, there is no dispute that when promotions were considered with the cut off date 31.12.2008, the writ petitioner was not eligible for consideration of promotion as he had not completed 20 years of service. When promotion process was started next with cut off date 31.10.2009 which was being considered in October, 2010, the petitioner had already superannuated on 30th of September, 2010. There was no occasion to consider his case for promotion.

6. We, therefore, have no option but to allow this

appeal and set aside the judgment and order dated 05.04.2012 passed by the learned Single Judge in C.W.J.C. No. 5611 of 2012 and dismiss the writ petition.

7. Accordingly, this appeal is allowed.

(Navaniti Prasad Singh, J)

(Rajendra Kumar Mishra, J)

P.S./-Bhardwaj/-

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