

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9433 of 2008

Arun Kumar, son of Late Raghav Prasad, resident of village- Agawanpur, P.S. Barh, District- Patna

.... Petitioner

Versus

1. The State of Bihar
2. The Secretary, Industries Department, Bihar, Patna
3. The Director, Industries Department, Bihar, Patna
4. The Addl. Director, Industries Department, Bihar, Patna
5. The Joint Director, Industries Department, Bihar, Patna

.... Respondents

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Sinha

For the Respondent/s : Mr. AC to SC-22

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 22-04-2015

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Heard Sri Pramod Kumar Sinha, learned counsel for the petitioner and learned AC to SC-22.

2. The petitioner, invoking writ jurisdiction of this Court under Article-226 of the Constitution of India, has prayed for quashing of an order, contained in Memo No.648 dated 20.02.2008 issued by the Director, Industries, Govt. of Bihar(Annexure-4 to the writ petition), whereby the petitioner has been reverted from Class-III to Class-IV post. It has been pleaded that the petitioner was initially appointed on compassionate ground and subsequently by order, contained in Memo No.306 dated 10.12.1984(Annexure-2 to the writ petition), the petitioner was appointed on promotion basis as Cashier i.e. Class-III post in the District Industries Centre, Khagaria. The said



order was issued by the Addl. Director, Industries Department, Bihar. It has been argued that the petitioner started discharging his duty of Cashier after order of this promotion, which was issued in the year 1984. Sincerely, he was discharging the same. However, suddenly by the impugned order dated 20.02.2008 after about more than 23 years, the Respondents have come out with an order to revert the petitioner from Class-III post to Class-IV post taking the plea that earlier promotion was granted illegally and without following roster clearance.

3. Learned counsel for the petitioner by way of referring to averments made in paragraph-7 of the counter affidavit submits that one Sri Jai Prakash Singh, a class-III employee had made a complaint on 05.08.2005 alleging irregular promotion of the petitioner and on this very ground, the order of reversion has been passed in the year 2008. He submits that said Jai Prakash Singh, who was earlier Class-IV employee and was subsequently promoted to Class-III post along with others, was also reverted by the authority concerned from Class-III to Class-IV post. However, number of writ petitions were filed assailing the order of such reversion. Such writ petitions were allowed only on the principle of equity that after 18 years of promotion, there was no reason to pass order of reversion. Learned counsel for the petitioner has referred to Annexures 9 and 13, which are orders passed



in C.W.J.C. No.15374 of 2009 on 03.02.2010 i.e. Annexure-9 and order dated 13.01.2006 passed in C.W.J.C.No.8412 of 2005 (Annexure-13). It has been argued that even the order of the writ court, whereby cancellation of promotion after 18 years in the same Department was set aside by the writ court, the State had preferred an appeal, which stood dismissed on 07.05.2007 vide L.P.A. No.949 of 2006. The L.P.A. Court also reiterated that there was no justification whatsoever reason has been shown for reversion of the writ petitioners, almost after 18 years of promotion. Learned counsel for the petitioner has drawn my attention to Annexure-8 i.e. an order dated 24.09.2007 passed by the Apex Court in Special Leave to Appeal (Civil) no.17156 of 2007. He submits that the appeal, which was preferred against the order passed in L.P.A. No.949 of 2006, too stood dismissed by the Hon'ble Apex Court. It has been argued that whatsoever reason may be, after expiry of 24 years from the date of promotion of the petitioner from Class-IV to Class-III post, there was no justification for the Respondents to pass an order of reversion and on the principle of equity, the petitioner deserves the relief.

4. Of course, in this case, a counter affidavit has been filed on behalf of Respondents/ State and learned counsel for the State has opposed the prayer of the writ petitioner, nothing has been brought on record to justify the reason for interfering with the order of

promotion, which was granted in the year 1984 and said order was cancelled in the year 2008 i.e. almost after 23 years. It is also not a case of the Respondents that the petitioner was not capable to discharge his duty as Cashier.

5. In view of facts and circumstances, particularly the fact that in identical situation in the same Department even after 18 years from the order of promotion such cancellation order has been interfered with by this Court, there is no reason to pass any other order in the present writ petition.

6. Accordingly, in view of principle of equity as well as the fact that similar writ petitions were allowed by this Court and finally affirmed by the Hon'ble Apex Court, the order contained in Memo No.648 dated 20.02.2008 i.e. Annexure-4 to the writ petition is hereby set aside. The writ petition stands allowed.

(Rakesh Kumar, J)

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