

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16180 of 2006

Chandeshwar Prasad Singh son of Late Tripit Narain Singh resident of village
Karahri, P.O. P.S. Bhagwanpur, Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner cum Secretary Water Resources Department, Sinchai Bhawan, Old Secretariat, Patna
3. Engineer-in-chief, Water Resources Department, Sinchai Bhawan, Patna
4. Chief Engineer, Research and Training, Irrigation Research Institute, Khagaul, Patna
5. Chief Engineer, Water Resources Department, Balmiki Nagar, Patna
6. Executive Engineer, Water Resource Department Balmiki Nagar Camp. Motihari
7. Deputy Director, Research Division, Balmiki Nagar, Camp Motihari

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh
Mr. Brajesh Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 11-05-2015

Heard the parties.

The writ application seeks to challenge the order dated 17.06.2004 (Annexure-15) passed by the respondent Chief Engineer, Water Resources Department, Valmikinagar, Patna in the light of the order dated 16.04.2003 passed by this Court as contained in annexure-13 read with the order dated 13.05.2003 (Annexure-13/A).

Indisputably, the petitioner was initially engaged in the work charge establishment on 20.02.1963. He was brought into the regular establishment of the department with effect from 31.03.1976



Vide Annexure-3. The petitioner was considered and granted promotion as Junior Research Assistant in the higher scale of pay. Subsequently, it appears, he was considered and granted the first time-bound promotion vide order dated 06.05.1987 (Annexure-5) with effect from 01.04.1981. Monetary benefit thereof was payable with effect from 27.03.1987. The respondent Chief Engineer granted him the second time-bound promotion from 20.02.1988 as he completed 25 years of services. This was subject to approval by the Finance Department. Such promotion was granted vide order dated 21.10.1992 (Annexure-8). The Finance Department did not approve such promotion which was accordingly withdrawn/cancelled. In such circumstance, he moved this Court by filing a writ application which was disposed of by directing the Chief Engineer to consider the grievance of the petitioner for grant of the second time-bound promotion in accordance with law within the period prescribed therein. Be it noted that the petitioner superannuated from service in the year 2002. While settling his retiral dues he claimed payment of legal dues after grant of second time-bound promotion. The respondent Chief Engineer in the light of the said order of this Court passed the order (Annexure-15) which has been impugned in the present writ application.

Counsel for the petitioner submits that the promotion which

was granted to the petitioner from the post of Lab Assistant to Junior Research Assistant will have no effect since both the posts were merged. He relies in this regard on Annexure-6 which is a resolution of the government in the Department of Finance dated 16.07.1985 as also Annexure-19 which is another resolution dated 09.08.1983 issued in the Department of Irrigation.

On perusal of both the resolutions it appears to this Court that 66 2/3 of the posts of Lab Assistant having requisite qualification were resolved to be filled up by way of grant of promotion from the post of Lab Assistant and other equivalent post(s) which had requisite qualification and the remaining by appointment. They do not talk of merger. Although the petitioner has strenuously argued that the merger of the post of Lab Assistant with that of Junior Research Assistant has taken place but the records do not support his contention.

In the counter affidavit, similar objection has been raised by the respondents. Paragraph 11, in particular, requires notice which is extracted hereinbelow:-

“That in pursuance of the said order of the Chief Engineer, Valmikinagar reexamined the claim of the petitioner in the light of opinion of the Finance Department and reached at the conclusion that since the petitioner has already been granted first time-bound promotion in the pay scale of Rs. 580-860 with effect from 01.04.1981 and cadre



promotion to the post of Junior Research Assistant in the pay scale of Rs. 785-1250 with effect from 01.02.1985 and both these promotions were granted to him prior to completion of his 25 years service i.e. 20.02.1988, the 2nd time-bound promotion with effect from 20.02.1988 is not admissible to him. Therefore the Chief Engineer, Water Resources Department, Valmikinager cancelled the earlier order contained in memo no. 4002 dated 14.11.2003 whereby the order of 2nd time-bound promotion with effect from 20.02.1988 vide order no. 3709 dated 21.10.1992 had been revived. The said order was communicated to the all concerned vide memo no. 23 dated 17.06.2004. (Annexure-15 of the writ application).”

If the petitioner has been granted the first time-bound promotion and thereafter substantive promotion from the post of Lab Assistant to Junior Research Assistant, he would not be entitled to the second time-bound promotion. Any clarification with regard to scale of pay payable to the junior selection grade of Junior Research Assistant or senior selection grade of Junior Research Assistant would have no relevance if it is found that the petitioner was granted the first time-bound promotion with effect from 01.04.1981 and the substantive promotion with effect from 25.02.1985 on the post of Junior Research Assistant having higher scale of pay of Rs. 785-1210. It has not been argued before this Court that even in spite of upgradation in scale of pay the petitioner would be entitled to the second time-bound promotion.

In view of aforesaid, this Court is unable to find any merit in the claim of the petitioner for grant of second time-bound promotion. The writ application fails and it is dismissed.

At this stage, counsel for the petitioner has relied on Singheshwar Pd. Singh vs. State of Bihar (2014 (4) PLJR, 550) in order to buttress his claim/case. In do not find any correlation /similarity between the case cited by the counsel for the petitioner and the present case because in the case of Singheshwar Pd. Singh (supra) the petitioner was in work charge establishment and was appointed on the post of Correspondence Clerk.

Dismissal of this application shall however not preclude the petitioner from ventilating his grievance before the appropriate authority based on the resolution of the government in accordance with law.

(Kishore Kumar Mandal, J)

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