

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9816 of 1999

Nirmala Kumari, Wife of Shri Prabhat Kumar, resident of Tajpur Road, Town, P.S. and District Samastipur, presently posted as Senior Clerk-cum-Cashier at Head Office of Samastipur Kshetriya Gramin Bank, Samastipur

.... Petitioner

Versus

1. The Bihar Gramin Bank, Head Office at Gramin Bank Chowk, Zero Mile, Begusarai, District-Begusarai
2. The Board of Directors, Bihar Gramin Bank through the Chairman of the said Bank, Head Office at Gramin Bank Chowk, Zero Mile, Begusarai, District-Begusarai
3. The Chairman, Bihar Gramin Bank, Head Office at Gramin Bank Chowk, Zero Mile Begusarai, District- Begusarai

.... Respondents

With

Civil Writ Jurisdiction Case No. 10867 of 1999

Ranjan Kumar Singh, son of Shri Kamla Prasad Singh, Resieent of village Keshopatti, P.O. Muktapur, P.S. Kalyanpur, District- Samastipur. Presently posted as Senior clerk-cum-Cashier at Dhamoun Branch, Samastipur Kshetriya Gramin Bank, Samastipur

.... Petitioner

Versus

1. The Bihar Gramin Bank through its Chairman, Head Office at Gramin Bank Chowk, Zero Mile, Begusarai, District-Begusarai
2. The Board of Directors, Bihar Gramin Bank through the Chairman of the said Bank, Head Office at Gramin Bank Chowk, Zero Mile, Begusarai, District-Begusarai
3. The Chairman, Bihar Gramin Bank, Head Office at Gramin Bank Chowk, Zero Mile Begusarai, District- Begusarai

.... Respondent

with

Civil Writ Jurisdiction Case No. 3550 of 2000

1. Bipin Kumar Choudhary son of Sri Haris Chandra Chudhary resident of village Ballipur, via Ilmasnagar, District Samastipur
2. Ram Naresh Choudhary son of Shri Triveni Choudhary Resident of village + P.O. Bandhar, District Samastipur,
3. Anil Kumar Son of Shri Ram Kalewar Choudhary Resident of village +P.O. Bandhar, district Samastipur
4. Guru Prasad son of Late Sukhdeo Prasad Resident of village Patepur, P.O. Sharan, District Samastipur
5. Aditya Narayan Mishra son of Shri Chandra Narayan Mishra Resident of village Bhatgama, P.O. + P.S. Dalsingsarai, District Samastipur
6. Shekhar Kumar Paul Son of Late Lalit Kumar Paul Resident of Mohalla

Kashipur, Town, P.O.+ P.S. and District Samastipur

.... Petitioners

Versus

1. Bihar Gramin Bank through its Chairman, Head Office at Gramin Bank Chowk, Zero Mile, Begusarai
2. The Board of Directors, Bihar Gramin Bank through the Chairman, Head Office at Gramin Bank Chowk, Zero Mile, Begusarai
3. The Chairman, Bihar Gramin Bank, Head Office at Gramin Bank Chowk, Zero Mile Begusarai

.... Respondents

Appearance :

(In CWJC No. 9816 of 1999)

For the Petitioner/s : Mr. Abhay Shanker Singh, Adv.
Mr. A.K. Mishra, Adv.

For SKGB/ Bihar Gramin Bank : Mr. S.D. Sanjay, Sr. Adv.
Mr. R.R. Tiwary, Adv.

(In CWJC No. 10867 of 1999)

For the Petitioner/s : Mr. Abhay Shanker Singh, Adv.
Mr. A.K. Mishra, Adv.

For SKGB/ Bihar Gramin Bank : Mr. S.D. Sanjay, Sr. Adv.
Mr. R.R. Tiwary, Adv.

(In CWJC No. 3550 of 2000)

For the Petitioner/s : Mr. Abhay Shanker Singh, Adv.
Mr. A.K. Mishra, Adv.

For SKGB/ Bihar Gramin Bank : Mr. S.D. Sanjay, Sr. Adv.
Mr. R.R. Tiwary, Adv.

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT

Date: 14-07-2015

The present batch of three writ applications has arisen out of same process of selection for grant of promotion from the post of Senior Clerk-cum-Cashier to the post of Field Supervisor, which post has now been upgraded as Junior Manager Grade Scale-I with effect from 01.04.1988, in Bihar Gramin Bank (successor Bank of the erstwhile Samastipur Kshetriya Gramin Bank). There are certain facts, which are identical in all the cases. The petitioners were



appointed as Clerk-cum-Cashier in the erstwhile Samastipur Kshetriya Gramin Bank in the Year 1981. In the Year 1985, the Bank was considering cases for promotion from the post of Clerk-cum-Cashier to the post of Field Supervisor. For the said purpose, an interview was held in which all the petitioners participated. On 23.03.1988, the Bank granted promotion to 17 persons to the post of Field Supervisor, which post has subsequently been re-designated as Junior Manager Grade Scale-I. It is their case that persons, who were junior to the petitioners, were granted promotion to higher grade. Subsequently, following the same process, 13 more persons were granted promotion to the said rank by an order dated 06.03.1991, who were also juniors to the petitioners in the seniority list. Aggrieved by the decision of the bank granting promotion to 13 persons by letter dated 06.03.1991, most of the petitioners filed writ application being C.W.J.C. No. 2836 of 1991. The main grievance, which was raised before this Court was that the principle of seniority-cum-merit, which was the criteria under the promotion regulations for grant of promotion, was given a go-bye and persons junior in the merit list, were given promotion on the basis of their performance in interview.

1. A plea was taken before this Court in the said C.W.J.C. No. 2836 of 1991, on behalf of the Bank, that while considering cases for promotion, marks were allotted for seniority,



past performance and interview and on overall consideration of these attributes; persons were granted promotion on the basis of their respective seniority. The writ application was disposed of by an order of this Court dated 05.11.1998 recording that nothing could be brought on record by the bank to show that any criteria for eligibility and modality were decided to test the merit. At the same time, this Court observed that the petitioners also did not specifically state that no eligibility and modalities were fixed by the Bank for such consideration. This Court, in the facts and circumstances disposed of the said C.W.J.C. No. 2836 of 1991 with the following direction and observation:-

“Under such circumstances, this Court is of the view that the petitioners should move the competent authority in the Bank by filing a representation in detail along with a copy of the recent decision of the Apex Court in the case of B.V. Sivaiah and others for re-examining their grievance relating to the aforementioned promotion. If such representation is filed within four weeks, then the competent authority in the respondents-Bank shall examine the grievance of the petitioner in the light of the aforementioned decision of the Apex Court and dispose it of afresh, if necessary, after giving notice to persons including the private respondents who

may likely to be affected within four months from the date of filing of the representation.”

2. Pursuant to this Court's order dated 05.11.1998, the petitioners filed their representations, which were rejected by an order dated 06.08.1999. The petitioners are said to have filed another representation, which according to them were not duly considered by the authorities.

3. Questioning grant of promotion to the persons, junior to these petitioners, and rejection of their representations by orders passed pursuant to the order of this Court dated 05.11.1999, the petitioners filed these writ applications in the year 1999-2000.

4. It appears that some of the persons, aggrieved by the decision of the Bank granting promotion to their juniors by letter dated 23.03.1988 had approached this Court by filing C.W.J.C. No. 1964 of 1988 (Vinoy Kumar Mishra & Ors. Vs. The Samastipur Kshetriya Gramin Bank & Ors.), questioning the decision on the same grounds, which have been taken in the present batch of writ applications. This Court by an order dated 14.11.2000 reported in **2001(1) PLJR 614 Vinoy Kumar Mishra & Ors. Vs. The Samastipur Kshetriya Gramin Bank & Ors.** dismissed the writ application with the following observation:-

“11. That apart, it cannot be ignored

that admittedly all the writ petitioners, had taken part in the selection process and had also appeared at the interview but they could not be selected. Therefore, in our view, this is also one of the reasons which may disentitle the petitioners to question the validity of the selection process.

12. Thus, taking into consideration the totality of the matter, it is not possible for the Court to interfere with the impugned promotion of respondent nos. 4 to 19. But it goes without saying, in case the petitioners are entitled, for promotion to the next higher scale presently, if available, their cases should be considered in accordance with law.

13. With the above observation, this writ application is thus dismissed. But in the facts and circumstances of the case, there shall be no order as to costs.”

5. Reason assigned by this Court in the said Division Bench decision in the case of Vinoy Kumar Mishra & Ors. Vs. The Samastipur Kshetriya Gramin Bank& Ors. (supra) applies with full force in background of facts of the present batch of cases, for their adjudication.

6. In addition, I find that the persons, who according to the petitioners, though juniors in the seniority list and had been granted promotion to the post of Field Supervisor/Junior Manager

Grade Scale-I, have not been impleaded as party-respondents in any of the writ applications. This is not in dispute that such persons were appointed against the vacancies as it existed on the dates of their promotion. In their absence, these applications cannot be maintained.

7. It has been stated at the bar that some of the petitioners and most of the persons, who were granted promotion in the Year 1988/1991, after attaining the age of superannuation, have already retired. In such circumstance, no relief can be granted to the petitioners as sought for in the present writ application, particularly in view of the Division Bench decision of this Court in the case of Vinoy Kumar Mishra & Ors. Vs. The Samastipur Kshetriya Gramin Bank & Ors. (supra).

8. These applications are accordingly dismissed.

9. There shall, however, be no order as to costs.

(Chakradhari Sharan Singh, J.)

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