

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9861 of 1998

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1. Ram Swaroop Prasad son of Late Sita Mahto of village Sarbahdi, Police Station Manpur, District Nalanda at present residing at Electricity Board Colony Quarter No. HUDCO-F/244, Police Station Shastri Nagar, District Patna, posted as Stenographer Class-II, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna.
 2. Hazari Lal Singh son of Late Mathura Prasad of Village-Gulamahiabag, Police Station Didarganj, District Patna, posted as Stenographer Class-II (SSG), Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna.

.... Petitioner/s

Versus

1. The Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna through its Chairman
2. The Chairman, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna
3. The Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna.
4. The Joint Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Sinha
For the B.S.E.B.	:	Mr. Vinay Kirti Singh
		Mr. Vijay Kumar Verma

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 23-02-2015

1. The petitioners in the present writ application seek quashing of the Standing Order No. 972/1998 (Annexure-5), by which the previous Standing Order No. 687 dated 31.10.1988 (Annexure-2) came to be cancelled reviving the Standing Order No. 2/99 dated 24.01.1970. The petitioners also seek for quashing of Letter No. 893 dated 17.10.1998 whereby the erstwhile Bihar State Electricity Board (hereinafter referred to as the 'Board') had decided to hold an examination in the month of November/December, 1998 for

appointment to the post of Stenographer Class-I (Personal Assistant) from amongst Stenographer Class-II, for which applications had been invited by 15.11.1998.

2. The petitioners, at the relevant point of time, were holding the post of Stenographer Grade-II (Secretariat Cadre) under the Respondent-Bihar State Electricity Board. It is their plea that there are two separate cadres of stenographers in the Board, viz., as Secretariat Cadre and Field Cadre Stenographers and the gradation list for the two cadres are also separate. The petitioners have challenged the impugned Standing Order dated 09.05.1998 on the ground that by such Standing Order, the Board decided to supersede its earlier Standing Order dated 31.10.1988 in the matter of selection for promotion to the rank of Stenographer Grade I, (Personal Assistant) from the post of Stenographers Class II (Secretariat Cadre) on the basis that there is recommendation by the Pay Revision Committee (P.R.C.) to make provision for selection through written examination for such promotion. Though such recommendation of the P.R.C. has been made basis for the decision as contained in the impugned Standing Order dated 09.05.1998 but according to the petitioners, there is no such recommendation made by the P.R.C. and the recommendation if any, in this regard, is confined to the promotion from the Field Cadre Stenographers.



3. The other limb of argument which the petitioners have put forth is that even if the validity of Standing Order dated 09.05.1998, is upheld, the Respondent-Board were required to fill up the vacancies to the post of Stenographer Grade-I up to 09.05.1998, i.e. the date of issuance of the Standing Order, through a process contemplated under the Standing Order No. 687 dated 31.10.1988.

4. The petitioner had filed an interlocutory application vide I.A. No. 13483 of 1998, seeking stay of the said Standing Order dated 09.05.1998 and consequent Letter No. 893 dated 17.10.1998 inviting applications from eligible candidates for participating in the eligibility test for promotion to the post of Stenographer Grade-I. The said interlocutory application, However, was rejected on 07.12.1998. The selection process accordingly continued. It appears from the counter affidavit filed on behalf of the Bihar State Electricity Board, to a supplementary affidavit filed on behalf of the petitioners, that the process of promotion to the post of stenographer Grade I (Personal Assistant) through eligibility test came to concluded long back. The affidavit was filed on 21.02.2000, paragraph No. 8 of which reads thus:-

“That from the facts stated above, it is stated and submitted that the process of appointment/promotion to the post of Stenographer Class I (Personal Assistant), has already been completed and Shri Baijnath Prasad Singh has already been appointed to the post of Stenographer Class I (Personal

Assistant) and he has already joined the said post and thereby Shri Baijnath Prasad Singh has accrued the right to hold the said post.”

5. The promotion so granted to the candidates have not been challenged. Nor the persons granted promotion through the selection process after holding eligibility test have been impleaded parties to the writ application.

6. I have heard Mr. Ranjan Kumar Sinha, learned counsel for the petitioner as well as Mr. Vinay Kirti Singh, learned counsel appearing on behalf of the Bihar State Electricity Board, at length.

7. Learned counsel for the petitioners has submitted that there was no recommendation by the Pay Revision Committee to the effect that there should be any written examination for promotion to the post of Stenographer Grade-I (Secretariat Cadre), though such recommendation was there for the persons holding the post of Stenographer Grade II (Field Cadre). In that background, learned counsel for the petitioners has drawn my attention to the orders of this Court dated 28.01.2000 and 21.01.2000 whereby the Board was directed to deal with the plea that by filing a counter affidavit before taking impugned decision as contained in Standing Order dated 09.05.1998, they have not taken into account the recommendations of the Pay Revision Committee. He submits that in the absence of any specific stand by the Board in this regard, an adverse inference should

be drawn that there was no recommendation of the Pay Revision Committee to provide for an eligibility test for promotion to the post of Stenographer Grade I from Stenographer Grade II (Secretariat Cadre).

8. He has next submitted that there were various posts of Stenographer Grade I (Personal Assistant) vacant as on 09.05.1998 which posts ought to have been filled up on the basis of selection procedure prescribed in the Standing Order No. 687 dated 31.10.1998. He has submitted that those posts, which were vacant prior to 09.05.1998 could not have been clubbed with subsequent vacancies for which the applications were invited through Annexure-6 dated 17.10.1998. This aspect cannot be considered since there is no specific pleading in the writ application, as to how many posts were sought to be filled up by inviting application through letter No. 893 dated 17.10.1998.

9. Learned counsel for the petitioner has placed reliance upon various judgments of Supreme Court including Motilal Padamapat Sugar Mills Vs. State of U.P. (A.I.R. 1979 (S.C.) 621); R.B.I. Bombay Vs. C.T. Dighe and others (A.I.R. 1981(S.C.) 1699 as well as State of Maharashtra Vs. Chandra Kant Anant Kalkarni (A.I.R. 1981 (S.C.) 1990 in order to bring home his point that the impugned Standing Order is not only violative of Articles 14 and 16 of the

Constitution of India, it is against the doctrine of promissory estoppel. Doctrine of promissory estoppel does apply in the present facts and circumstances of the case. It is not the case of the petitioners that they altered their position because of any promise made by the Respondents-Bihar State Electricity Board.

10. As regards the validity of the Standing Order is concerned, I am of the considered opinion that the employer is the best judge to adopt a process of selection for appointment or grant of promotion and such procedure cannot be interfered with till it is found to be infringing constitutional or legal position or is found to be otherwise unreasonable, arbitrary or discriminatory. If the Board decided to introduce a written eligibility test for promotion to the post of Stenographer Grade I from Stenographer Grade II in order to maintain efficiency in service, such decision cannot be said to be unreasonable and cannot be faulted with only because it may have some adverse effect on a class of persons, who are not able to clear the eligibility test.

11. I do not find any merit in this application. This application is dismissed.

(Chakradhari Sharan Singh, J.)

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