

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9243 of 2010

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Baleshwar Prasad S/O Late Horil Pandit R/O Vill.- Benipur, P.S.- Aungari,
Distt.- Nalanda.

.... Petitioner/s

Versus

1. The Bihar State Housing Board Through Its Chairman-Cum-Managing Director 6-Sardar Patel Marg, Patna
2. The Chairman-Cum-Managing Director Bihar State Housing Board, 6-Sardar Patel Marg, Patna
3. The Secretary Bihar State Housing Board, 6-Sardar Patel Marg, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Sinha, Adv

For the Respondent/s : Mr. Anshuman Singh, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

5 13-05-2015 Heard learned counsel for the parties.

Assailing the impugned order passed by the Chairman cum Managing Director of the Bihar State Housing Board, Patna dated 21.01.2009, Mr. Shailendra Kumar Sinha, learned counsel appearing on behalf of the petitioner has concentrated on the aspect that while considering the grievance of the petitioner for grant of Junior/Senior selection grade of the post of Tracer, the crucial fact that the petitioner had become eligible for such post w.e.f 1985, has not been taken into account.

Learned counsel for the respondents on the other

hand has supported the impugned order and in fact has also added that the grievance of the petitioner who had already retired in the year 2005 is a stale issue.

While this Court having regard to the earlier order passed on 07.11.2008 in C.W.J.C No. 520 of 2007 would not hold the grievance of the petitioner to be imaginary because the impugned order has been passed in compliance of the aforesaid order of this Court dated 07.11.2008, but then this Court will find the impugned order to be correct on merits. The reason for the same also is very clear. The petitioner was appointed in the Bihar State Housing Board on the post of Draughtsman on 13.09.1974 and thereafter he was promoted again on the post of Tracer by order dated 11.05.1980. Such promotion in higher pay scale has disentitled the petitioner to claim any time bound promotion or selection grade of the earlier post of Draughtsman and therefore, the petitioner could have been the time bound promotion which was eventually given to him by order



dated 25.10.2002 w.e.f. 16.05.1990 whereas the petitioner was given the time bound promotion w.e.f. 16.05.1990 i.e. after period of ten years on the date he had completed the prescribed period of ten years on the post of Tracer. Thus he could not have asked for anything more keeping in view the scope of the resolution of the Finance Department dated 30.12.1981 introducing both junior selection grade/senior selection grade as well as time bound promotion. As a matter of fact, the second time bound promotion to the petitioner could not have been admissible both on account of his getting two promotions one regular promotion on the post of Tracer and the other time bound promotion after completion of 10 years. In any event, this concept of time bound promotion and/or senior selection grade came to an end w.e.f 01.01.1996, was changed to the concept of need based post therefore, the petitioner when he had retired in the year 2005, he was rightly getting the pay scale of promotional post of Tracer and

should be happy that he has also been given all his retirement benefits on the basis of last pay drawn by him on the post of Tracer.

As a matter of fact, there may be some merit in the impugned order that such promotion was given to the petitioner even without being confirmed but having regard to the fact that the respondent-authority himself has not further gone into the matter and in fact has also not passed any order for recovery, this Court would not like to record any adverse finding as with regard to temporary status of the petitioner depriving him to get promotion on the post of Tracer.

Be that as it may, this Court does not find any error in the impugned order passed by the competent authority.

That being so, there is no merit in this writ application. It is, accordingly, dismissed.

(Mihir Kumar Jha, J)

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