

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15417 of 2007

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Bed Narayan Singh son of Late Rohi Mahto, resident of village Chandu
Bigha, P.O. Asarhi, Via Ekangarsari, P.S. Hilsa, Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. Secretary Department of Agriculture, Govt. of Bihar, Patna
3. Director Agriculture, Govt. of Bihar, Patna
4. Commissioner Patna, Near Gandhi Maidan, Patna
5. District Magistrate Patna
6. Deputy Development Commissioner, Patna
7. Block Development Officer, Masaurhi Block Masaurhi, P.S. Masaurhi,
Patna
8. Accountant General, Patna, Birchand Patel Marg, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar

For the State Mr. Alok Kr. Rahi, A.C. to AAG 2

For the Accountant General Mr. Ranjan Kumar

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

5 27-04-2015 Heard Mr. Sanjay Kumar for the petitioner, Mr. Alok
Kumar, A.C. to AAG 2 and Mr. Ranjan Kumar for the Accountant
General.

A counter affidavit was filed in the present case on
behalf of respondent nos. 5 to 7. The matter was taken up
thereafter when on the request made by the counsel for the State
an indulgence was granted to file a supplementary counter
affidavit. The same has, however, not been filed.

The petitioner by filing the present writ application has
sought a direction upon the respondents to re-fix the pensionary

benefits after grant of the second time-bound promotion with effect from 17.05.1990.

Considering the subject matter assigned by the petitioner to the present writ application, this Court would proceed to consider the grievance of the petitioner regarding non grant or non fixation of his scale of pay after grant of the second time-bound promotion while he was in service. Be it noted that the petitioner served as Jansewak in the office of the Block Development Officer, Masaurhi under the administrative control of the District Magistrate, Patna and retired with effect from 31.12.1998. Precisely, the grievance of the petitioner is that he was granted the second time-bound promotion with effect from 17.05.1990 as per the provision contained in the government resolution no. 10770 dated 30.12.1981 vide order passed by the respondent District Magistrate, Patna on 03.09.2005 (Annexure-2) but the actual benefit thereof has not been afforded to him. If the benefit is afforded the pensionary benefits of the petitioner would be revised.

In the counter affidavit filed by the Block Development Officer it has been stated that soon after the grant of the second time-bound promotion to the petitioner under the orders of the respondent District Magistrate with effect from



17.05.1990 as per the resolution of the government the respondent concerned swung into action and the service book and other relevant papers of the petitioner were sent to the Deputy Collector, In charge, Establishment Development Section, Patna for taking appropriate steps for fixation of salary etc. vide letter dated 18.11.2006 (Annexure-A). It further appears from the said counter affidavit that the matter was thereafter referred to the Director, Agriculture, Govt. of Bihar, Patna, for according sanction/confirmation. The original papers including the service book etc. have also been sent. Few reminders have also been sent for expediting the matter but till date the same has not been done.

The counsel for the State has also submitted with reference to the communication dated 09.04.2008 (Annexure-C) issued by the respondent Deputy Collector, Establishment Development Section that for according confirmation to grant of second time-bound promotion the papers have been sent to the office of the Director, Agriculture, Govt. of Bihar where the matter is pending. Precisely, for this purpose this Court required a supplementary counter affidavit which in spite of indulgence has not been filed.

I have heard the parties.

From the pleadings on record it appears that the



petitioner has been considered and granted the benefit of second time-bound promotion as per the provision contained in government resolution dated 30.12.1981. It also appears from the materials on record that no proceeding either departmental or judicial was pending against the petitioner when the same was granted. His entitlement to the said benefit is therefore not in dispute. The matter is hanging in balance only on account of non confirmation thereof by the competent authority of the government which in the present case appears to be the Director, Agriculture(respondent no.3). This is not such a matter which would require 6-7 years for an officer to consider and grant formal confirmation to the benefit which was granted to the petitioner after due verification by the respondent District Magistrate, Patna. This is an example of tardiness/sluggishness on the part of the State respondent(s).

Taking into account these facts appearing from the records and after considering the submissions made at the Bar this Court disposes of the writ application by directing the competent authority of the government, whoever he may be, to accord/grant confirmation as requested by the respondent District Magistrate through the communication of the Deputy Collector, In-charge, Establishment Development Section, Patna, if not

already granted, within ten days from the date of receipt/production of a copy of this order before the said authority either by the petitioner or the office of the respondent District Magistrate. The other pensionary benefits of the petitioner in that case may be required to be revised. This Court therefore observes that upon grant of the second time-bound promotion the respondent will proceed to calculate the retiral benefits which the petitioner would be entitled to as expeditiously as possible.

(Kishore Kumar Mandal, J)

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