

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6769 of 2008

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Ram Chalitar Sharma, son of late Shyamdeo Sharma, resident of village – Bara Bariarpur, P S – Motihari, District – West Champaran

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner, Water Resources Department, Sinchai Bhawan, Patna.
2. The Chief Engineer, Mechanical, Water Resources Department, Old Secretariat Barrack, Patna.
3. The Superintending Engineer, Mechanical Circle, Water Resources Department, Muzaffarpur.
4. The Executive Engineer, Irrigation Mechanical Division, Birpur, District – Supaul.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. VISHWA NATH RAM
Mr. Ajay Kumar

For the Respondent/s : Mr. Ashok Priyadarshi, GA 4

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 04-08-2015

Heard counsel for the petitioner and counsel for the State.

The impugned order is dated 10.4.2007, contained in Annexure-1, by virtue of which the Commissioner cum Secretary, Water Resource Department, has rejected the claim of the petitioner for grant of second time-bound promotion on the ground that the petitioner was appointed afresh on 1.10.1973 as Carpenter (Grade-1). If the appointment of the petitioner on 1.10.1973 is taken into consideration, he becomes eligible only w.e.f. 1.10.1998 and the scheme of time-bound promotion came to an end on 1.1.1996.

Many a pleadings have been exchanged between the parties. But unfortunately the State has not brought on record any clinching evidence to

show that the petitioner's appointment was a case of re-appointment or a fresh appointment w.e.f. 1.10.1973. In fact, from reading of the materials on record, it is evident that initially when the petitioner was engaged on work-charge establishment w.e.f. 9.2.1968, he was extended the benefit of fixed wage. From 1.10.1973 he was given a pay-scale.

Grant of pay-scale does not amount to new appointment.

Counsel for the petitioner has relied upon series of decisions in similar facts and circumstances, which are on record as Anneuxrer-11 series.

Taking the above ratios into consideration, the order of Commissioner cum Secretary, Water Resource Department, needs to be set aside and is set aside.

Writ application is allowed.

Respondents are directed to consider grant of second time-bound promotion to the petitioner, treating his initial appointment as 9.2.1968.

An early decision must be taken in this regard.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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