

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14523 of 2007

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Tahauwor Hussain son of late Abdul Hakim, retired Assistant Professor, Bihar Institute of Technology, Sindri, Dhanbad at present residing at village Rampur Madho, Post office-Maniyara, Dist. Gopalganj.

.... Petitioner

Versus

1. The State of Bihar
2. Secretary, Department of Science and Technology, Govt. of Bihar Bailey Road, near new Secretariat, Patna.
3. Director, Science and Technology, Government of Bihar, Bailey Road, Near New Secretariat, Patna.
4. Departmental Establishment Committee, Department of science and Technology, Bihar through its Secretary, Bailey Road, Near New Secretariat, Patna.
5. The Joint Secretary, Department of Science and Technology, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioners : Mr. Ram Bilash Mahto, Advocate.

For the State : Mr. Kumar Priya Ranjan, SC-23.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 08-05-2015

Heard the counsel for the petitioner and the State.

The petitioner served the Bihar Institute of Technology, Sindri (for short 'B.I.T.') and retired w.e.f. 30.4.1996. He has been fighting litigation in this Court for grant of second time bound promotion. As many as four writ petitions were filed by the petitioner. The last order directing consideration of his claim was passed on 19.5.2005 (Annexure-11) against which the present writ petition has been filed.

Contention of the petitioner is that he was initially appointed as Laboratory Assistant on 19.07.1958 which was



confirmed w.e.f. 09.08.1959 by another order dated 22.11.1960(Annexure-1). The respondents in the impugned order has noted that he was appointed on substantive basis on 7.3.1964 whereafter he was granted the first time bound promotion. Second time bound promotion became due w.e.f. 07.03.1989. However, as per the resolution/circular of the Government as also the UGC scheme which was applicable in the case of the petitioner also, no such promotion which fell due on or after 01.03.1989 is admissible.

Learned counsel for the State relied on the order dated 4.3.1964 (Annexure-5) in order to submit that the petitioner was appointed as demonstrator in the year 1964. Previous engagement/appointment of the petitioner was under certain scheme which cannot be treated as substantive appointment. The impugned order discloses his date of appointment as 7.3.1964 which is also not in conformity with Annexure-5.

In view of the aforesaid, this Court is inclined to remit the matter to the respondent- Director of Industries for passing a fresh orders in accordance with law but after affording opportunity of filing representation by the petitioner. The petitioner undertakes to file a representation in support of his claim together with copy of the present order within a period of four weeks. The respondent-Director will thereafter examine the same and pass a fresh order in

accordance with law as quickly as possible preferably within two months of such filing.

Be it noted that in view of the dispute between the parties with regard to the actual date of induction in the service as asserted by the petitioner based on Annexure-1 and the reason assigned in the concluding part of the impugned order, the matter is being remitted for fresh consideration of the claim of the petitioner by the said respondent. In passing the fresh order, the respondent-Director shall not be precluded in any manner by the order contained in Annexure-12.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

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