

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12285 of 2013

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Bela Devi, wife of late Vaidyanath Prasad Keshri, resident of Mohalla Sri Nagar,
P.O. Ashiana Nagar, Police Station-Shastri Nagar, Town and District Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Animal and Fisheries Resources Department, Government of Bihar, Patna
2. The Director, Animal and Fisheries Resources Department, Government of Bihar, Patna
3. The Principal Secretary, Finance Department, Government of Bihar, Patna
4. The Under Secretary, Animal and Fisheries Resources Department, Government of Bihar, Patna
5. The Accountant General, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mayanand Jha,
Mr. Anil Kumar, Advocates.
For the Respondent/s : Mr. Ajay Bihari Sinha, GA 8
Ms. Kalpana, AC to GA8
For Accountant General : Mr. Anand Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 01-08-2016

Heard the parties.

In the present writ petition, petitioner is seeking relief for setting aside the letter no. Estab.(4)761/12-123 dated 17.1.2013 issued under the signature of the Under Secretary, Animal and Fisheries Resources Department, Government of Bihar by which second time bound promotion granted to the husband of the petitioner, late Vaidyanath Prasad Keshri, with effect from 2.10.1982 has been withdrawn and prayer has been made to restore the same in terms of the order passed by this Court in the case of Dr. Banshopal Prasad Keshri in C.W.J.C. No.3274 of

2010 and in the case of Most Lakshmi Dwivedi in C.W.J.C. 11523 of 2009.

The husband of the petitioner was appointed as a Veterinary Doctor in Class III Non-Gazetted service on 2.10.1957 and was made Gazetted Officer vide memo no. 13298 dated 1.11.1967 on the same pay scale along with other persons. Petitioner was promoted in Class II (Junior) vide notification no.6361 dated 22.5.1976 and thereafter the Government of Bihar has taken a resolution for merger the Bihar Veterinary Service Class II Junior with Bihar Veterinary Service Class II Senior with effect from 1.1.1977 vide notification no.1715 dated 14.2.1978. In this manner the scale of the petitioner was enhanced. The Government of Bihar took a decision that the merger of two grade does not amount to promotion and the benefit of placement of employee in Class II Senior would not be taken in to consideration in terms of the Government of Finance Department's Resolution No.3/P.R.C.-7/084/4245 F.(2) dated 16.7.1985 and on that score the petitioner has claimed for time bound promotion after completion of 25 years of service.

Accordingly the Government of Bihar vide its notification no.3809 dated 12.7.1997 granted second time bound promotion



with effect from 2.10.1982 along with others in which the name of the petitioner was standing as sl.no.80 and Dr. Banshropan Prasad Keshri was also given identical relief and so much so Hari Kishore Dwivedi who was standing at sl.no.313 was granted second time bound promotion. Husband of the petitioner superannuated from service on 31.12.1990 after completion of 58 years of service and after superannuation subsequently the Animal Husbandry and Fisheries Department, Government of Bihar came out with a letter no.4479 dated 31.8.1998 thereby cancelled the notification no.3809 dated 12.7.1997 and thereby second time bound promotion has been withdrawn.

This Court is not required to go in detailed discussion with regard to withdrawal of second time bound promotion in view of the fact Hari Krishna Dwivedi husband of Most Lakshmi Dwivedi was also promoted along with the petitioner which withdrew, Lakshmi Dwivedi moved this Court vide C.W.J.C. No. 862 of 2005 and this Court allowed the writ, similarly one Banshropan Prasad Keshri has also been granted identical relief as his second time bound promotion which was also withdrawn approached this Court vide C.W.J.C. No.3274 of 2010 (Annexure-6) challenging the order this Court after consideration of the notification issued by the Government of

Bihar and has held that withdrawal of second time bound promotion is not sustainable and accordingly quashed the same.

Learned counsel for the petitioner submits that case of the petitioner and other two persons mentioned above are identical and there is no difference. The State has deprived the benefit on the ground that aforesaid two persons have been given benefit by this Court in their individual capacity which is apparently clear from the stand taken in the counter affidavit wherein in paragraph 15 it has been stated that as the order passed in favour of the aforesaid persons was in individual capacity, the same benefit cannot be extended to the petitioner. This stand is strange and de hors to the litigation policy framed by the State of Bihar instead of extending the benefit in identical case but compelling each and every person to approach this Court on that account docket of the Court is piling up causing unnecessary backlog of case.

In such view of the matter, as the issue has already been settled and State though opposed the prayer of the petitioner not pointed out the difference in the present case and other two cases. In this view of the matter, letter dated 31.8.1998 (Annexure-8) and the letter no. Estab.(4)761/12-123 dated 17.1.2013 Annexure-9) are hereby set aside and it will be treated that granting of second time bound promotion in favour of husband

of the petitioner is completely legal and valid and petitioner is entitled to all consequential benefits as has been given to other two persons.

With the aforesaid observation this writ petition is allowed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.8.2016
Transmission Date	NA