

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1049 of 2013

IN

Civil Writ Jurisdiction Case No. 6983 of 2008

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Deo Kumar Tiwary, Son of Late Sri Deo Narayan Tiwary, Resident of Mohalla -
Kuraich Mahavir Asthan, Near Canal Gali No. 16 P.O. And P.S. Sasaram, Dist -
Rohtas (Sasaram)

.... Appellant/s

Versus

1. The State of Bihar
2. The Secretary, Urban Development Department, Govt. of Bihar, Patna
3. Nagar Parishad, Rohtas at Sasaram
4. The Chairman, Nagar Parishad, Sasaram through its Chairman
5. Executive Officer, Nagar Parishad, Rohtas, Sasaram
6. Collector, Rohtas at Sasaram

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Surendra Kumar Choubey, Advocate
For Sasaram Nagar Parishad : Mr. Vijay Shankar Upadhyay, Advocate
For the State : Mr. Kamlesh Kishore, AC to GP-2

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 14-07-2016

This intra-court appeal is against the judgment dated 09.07.2013, passed in C.W.J.C. No. 6983 of 2008 (Deo Kumar Tiwary Vs. The State of Bihar and others) by which the writ petition of the writ petitioner-appellant claiming, inter alia, time bound promotion has been rejected. The relief claimed is against the Sasaram Nagar Parishad/ Sasaram Municipality, who had appeared and is represented.

We have heard the learned counsel for the

appellant and learned counsel for the Sasaram Nagar Parishad/ Sasaram Municipality, perused the records and with their consent are disposing of this appeal at this stage itself.

It is not in dispute that the writ petitioner-appellant, who was a permanent employee of Sasaram Nagar Parishad/ Sasaram Municipality and superannuated on 31.07.2007, has filed the writ petition as he claimed that in the entire service career spanning over three decades with the Sasaram Nagar Parishad/ Sasaram Municipality he was never granted any promotion. He retired on the same post on which he was initially appointed. He, according to Government circular, was thus entitled to two time bound promotions. In the writ petition, in paragraph 7, this is clearly pleaded that the circular of the State Government being the resolution of the State Government in the Department of Urban Development, as circulated by Memo No. 2575 dated 29.06.1990 annexed with the writ petition, clearly envisages that the employees of Sasaram Nagar Parishad/ Sasaram Municipality could be paid remunerations on par with the State Government employees. With effect from 01.01.1986 they would also be entitled to revision of pay and cash payments as a consequence thereof.

In reply to this, a counter affidavit had been filed on behalf of Sasaram Nagar Parishad/ Sasaram Municipality by its



Executive Officer in the writ proceeding in which in response to paragraph 7 of the writ petition the response is in paragraph 6 stating that it does not require reply. Later on in the counter affidavit all that it says is that under the Municipal Act, rules framed thereunder, there is no provision for time bound promotion. In our view, the resolution of the State Government as contained in Annexure-1 of the writ petition not having been denied, we can only hope that if the literate employees of Sasaram Nagar Parishad/ Sasaram Municipality are to receive the same remuneration as that of the State Government that would include time bound promotion as well.

Our attention has also been drawn to the judgment of the learned Single Judge of this Court dated 08.08.2012, passed in C.W.J.C. No. 4496 of 2012 (Nawal Kishore Sharma Vs. The State of Bihar and others). This was also a case in relation to Sasaram Nagar Parishad/ Sasaram Municipality and the same very dispute was there. In that case the employee had been given time bound promotion and paid in lieu thereof which was objected to by the Accountant General and, as such, notices had been issued for recovery thereof. This Court held that the employees of Sasaram Nagar Parishad/ Sasaram Municipality were entitled for time bound promotion, as was available to the State Government employees and, therefore, no recovery would be made.

For the reasons aforesaid, we have no option but to allow this appeal, set aside the judgment and order of the learned Single Judge dismissing the writ petition and consequently we direct Sasaram Nagar Parishad/ Sasaram Municipality to compute the financial benefits accordingly in respect of appellant- writ petitioner within a period of four months from today. The responsibility for timely compliance would be on the Executive Officer of Sasaram Nagar Parishad/ Sasaram Municipality.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

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