

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.932 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 1201 of 2014
Along with
Interlocutory Application No.3947 of 2015**

Prabhat Krishna, son of late Jagat Narayan Mandal, resident of A/48, Indrapuri Colony, Raza Bazar, P.O.-Bihar Veterinary College, Police Station-Shastrinagar, District-Patna.

.... Petitioner-Appellant

Versus

1. The State of Bihar.
2. The Agriculture Production Commissioner, Agriculture Department, Government of Bihar, New Secretariat, Patna.
3. The Secretary, Agriculture Department, Bihar, Patna.
4. The Director Agriculture, Department of Agriculture, New Secretariat, Bihar, Patna.
5. The Under Secretary, Department of Agriculture, New Secretariat, Bihar, Patna.
6. The Accountant General, Bihar, Patna.

.... Respondents- Respondents

Appearance :

For the Appellant : Mr. H. P. Singh, Senior Advocate
Mr. Suresh Kumar, Advocate
For the Respondents-State : Mr. Rakesh Kr. Shrivastava, A.C. to G.P.-15
For the Accountant General : Mr. Madhuresh Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 08-09-2016

Re.: Interlocutory Application No.3947 of 2015

The application is for condonation of delay of 8 days in filing of the present Letters Patent Appeal.

2. For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters

Patent Appeal.

3. Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.932 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 12th of February, 2015 whereby, the writ application filed by the appellant claiming benefit of time bound promotion was not entertained.

2. The appellant as a member of Bihar Sub-ordinate Agriculture Service was transferred to perform duties of Bihar Agriculture Service Category-9, Class-II vide memo dated 3rd June, 1982. Thereafter, he was granted regular promotion in Class II vide communication dated 22nd of August, 1987 issued by the Bihar Public Service Commission. The appellant was again transferred to the post of Deputy Director Agriculture (Research), World Bank, Agriculture Extension Programme, Bihar, Patna on 30th June, 1989. It is thereafter, the appellant was promoted on 22nd August, 1992 in Junior Selection Grade having revised pay scale of Rs.3000-4500/-. The monetary benefits were payable from the date of issuance of the said Notification. The said promotion is said to be under Time Bound Promotion Scheme.

3. The grievance of the appellant is that the appellant is entitled to Second Time Bound Promotion to which he became entitled

on 22nd of August, 1997, but the benefit thereof was not given to the appellant in view of the Notification issued by the Government of Bihar published on February 13, 1999 to the effect that the benefit of time bound promotion and selection grade shall stand abolished from 1st January, 1996.

4. The argument of learned counsel for the appellant is that the Notification dated February 13, 1999 further contemplated framing of a promotion policy on the basis of need based posts. In terms of the said decision, it was decided by the State Government on 9th of April, 2006 to grant promotion to the category to which the appellant belongs. Therefore, the appellant is entitled to the benefit as contemplated in the Notification dated 9th April, 2006.

5. We have heard learned counsel for the parties and find no merit in the present Appeal. The appellant attained the age of superannuation on 30th of June, 2002. Prior thereto, the policy of granting time bound promotion was done away with when the Notification was issued on 13th February, 1999. The appellant, thus, is not entitled to time bound promotion on the basis of the policy which was in force prior to 1st of January, 1996.

6. The need based promotion as contemplated in the Notification dated 13th February, 1999 came to be issued only on 9th of April, 2006. Such post has not been created with retrospective effect,

therefore, the appellant, who attained the age of superannuation on 30th of June, 2002, cannot seek benefit of promotion on the basis of subsequent creation of the post for granting promotion vide communication dated 9th of April, 2006.

7. In view of the said fact, we do not find that the appellant is entitled to the time bound promotion on the basis of the scheme which stood abolished with effect from 1st of January, 1996.

8. Consequently, the Letters Patent Appeal is dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	N. A. F. R.
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