

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.407 of 2014

IN

LPA 729 of 2014

- =====
1. The United India Insurance Co. Ltd., through its Chairman cum Managing Director, Head Office, 24 Whites Road, Chennai, 600014.
 2. The General Manager (Personnel), United India Insurance Co. Ltd., Head Office, 24 Whites Road, Chennai, 600014.
 3. The Deputy General Manager, United India Insurance Co. Ltd., Head Office, 24 Whites Road, Chennai, 600014.
 4. The Manager (United India Insurance Co. Ltd., Head Office, 24 Whites Road, Chennai, 600014.) Regional Office, Chanakya Tower (3rd Floor), R-Block, Patna-800001.
 5. The Chief Regional Manager, United India Insurance Co. Ltd., Regional Office, Chanakya Tower (3rd Floor), Beerchand Patel Path, R-Block, Patna-800001.

.... Respondents-Petitioners

Versus

Rana Ranjeet Singh, Son of Late Bankey Bihari Singh, at present residing at House No.2H/45, Bahadurpur Housing Colony, P.S. Agam Kuan, Town and District- Patna-800026.

.... Appellant-Opposite Party

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Appearance :

For the Petitioner/s : Mr. R. C. L. Das, Advocate

For the Respondent/s : Mr. Dilip Kr. Tiwary, Advocate

Mr. Krishna Kant Tiwary, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH)

Date: 04-07-2016

The United India Insurance Company Ltd., a nationalized Company under the provisions of the General Insurance (Provisional Emergency) Act, 17 of 1971, seeks review of the order, dated 21.10.2014, passed by this Court in L.P.A. No. 729 of 2014, arising out of C.W.J.C. No.476 of 2012, which was disposed of on 13.03.2014. The Company was party respondent, in appeal, as also in writ petition.

2. Before we consider the merit of this review petition, it would be relevant to notice the facts of the case in brief:

3. The respondent, in this review petition, namely, Rana Ranjeet Singh, initially, joined Union Co-operative Insurance Society Limited. In 1971, the Insurance Companies were nationalized, and a General Insurance Corporation was constituted with four subsidiaries, which included United India Insurance Company Limited. The Union Co-operative Insurance Society Limited, of which the respondent was an employee, merged with the United India Insurance Company Limited on same terms and conditions as per the merger scheme issued, in the year 1973, by the Government of India. In the year 1975, the United India Insurance Company framed General Insurance (Rationalization of Pay Scales and other terms and conditions of service of Officers) Scheme, 1975 (in short, “the Scheme”) with a view to streamline and regulate the service conditions of its employees.

(i) In terms of the Scheme, the writ petitioner-appellant was categorized and designated as an Additional Administrative Officer. On 17.11.1979, he was promoted to the post of Administrative Officer. As per the Scheme, an Administrative Officer becomes eligible for promotion as Assistant Manager after three years of service. It is the case of the writ petitioner-appellant that some of



his juniors got promotion to the post of Assistant Manager in the year 1982-83; whereas he got promotion to the rank of Assistant Manager on 20.04.1985. An Assistant Manager, in turn, becomes eligible for promotion after he puts in three years in the same grade. The petitioner, as such, claims to have become eligible for promotion to the post of Deputy Manager in 1988. The seniority list of Assistant Managers was prepared on 01.01.1989, wherein the petitioner was placed at serial No. 37; whereas one V. S. Chopra was placed at serial No. 80. By 10.05.1989, the Assistant Managers, upto serial No. 92 in the seniority list, were promoted to the grade of Deputy Manager.

4. It is the further case of the writ petitioner that in the seniority list of Assistant Manager, prepared on 01.01.1990 and 01.01.1991, his name figured at serial No. 24 and 19 respectively. However, persons, junior to him in the seniority list, were promoted in the rank of Deputy Manager, whereas he was not promoted to the post of Deputy Manager.

5. Being aggrieved, he filed C.W.J.C. No. 6912 of 1992, which was disposed of by order, dated 16.11.1994, directing the respondents to consider the petitioner's case for promotion to the post of Deputy Manager from the first stage, i.e., the date from which his juniors got promoted. A cost of Rs.5,000/- was also imposed on the respondents for depriving the petitioner of promotion all these years.

The insurance company preferred appeal, which came to be registered as L.P.A. No. 170 of 1994. This appeal was dismissed on 16.11.1995.

6. As the order of this Court was not complied with, the appellant filed M.J.C. no. 1110 of 1995. In the contempt proceeding, the respondents contended that on consideration, the appellant was not found fit for promotion. The said M.J.C. application was dismissed by order, dated 15.12.1995, with liberty to the appellant that he may challenge the action of the respondents by filing a writ petition. In the meantime, a disciplinary proceeding was initiated against the appellant and a criminal prosecution was also launched against him. The initiation of disciplinary proceeding and criminal prosecution led to filing of more cases. The petitioner was, eventually, dismissed from service, as he was convicted in a criminal case. Later on, he was acquitted of the charges by judgment and order, dated 22.07.2010, passed in Cr. Appeal No. 487 of 2002 (S.J.), by a learned single Judge of this Court. The petitioner, then, filed writ petition bearing CWJC No. 476 of 2012, with two prayers, namely:-

“(i) for quashing of the order, dated 30.09.2011, passed by respondent No. 3, the Deputy General Manager, United India Insurance Company Limited, Chennai, whereby the representation of the appellant for promotion, with effect from the date his juniors had been promoted, was rejected, and (ii) for quashing of the letter, dated

08.06.2011, of the Manager, United India Insurance Company Limited, Patna (respondent No. 4), by which, while withdrawing the dismissal of the appellant from service, the period, from the date of his dismissal till the date of his superannuation, was treated as not spent on duty denying, thus, the wages for the intervening period.”

7. The writ Court allowed the second relief holding that the petitioner-appellant would be entitled to wages from the date of his dismissal till the date of his superannuation. While coming to the aforesaid conclusion, the learned single Judge took the view that as the dismissal of the petitioner-appellant from service was solely based on his conviction in a criminal prosecution, but the order of dismissal necessarily is to be set aside, as he was subsequently acquitted. So far as the first prayer of the appellant that he was entitled to be promoted to the post of Deputy Manager from the date his juniors were promoted in the year 1988, did not find favour with the Court and was accordingly declined.

8. Being aggrieved by the order of the learned single Judge, both the writ petitioner as well as the insurance company filed appeals. The appeal of the petitioner was numbered as LPA No. 729 of 2014, whereas the appeal of the insurance company was numbered as 1448 of 2014. The appeal of the insurance company was dismissed

for default on 09.12.2014, whereas the appeal of the writ petitioner was allowed.

9. While allowing the appeal of the writ petitioner, this Court observed that the respondents, vide letter, dated 08.06.2011 (Annexure- 17 to the writ petition), stated that *ad hoc* promotion offered earlier stood restored on regular basis w.e.f. 20.05.1998. This Court was of the view that as respondents themselves have restored the promotion on regular basis, which would become due from the date, the appellant's juniors were granted promotion. The insurance company, which was respondents in writ and appeal, has filed this review application for review of the order, dated 21.10.2014, aforementioned.

10. The review petition is filed, primarily, on the ground that the selection to the post of Manager was based on merit and seniority cum-suitability basis and elaborate guidelines had been formulated for promotion to the post of Manager. There was a minimum cut off marks prescribed for promotion from the post of Assistant Manager to Deputy Manager, and, as such, the seniority alone was not the criteria for promotion to the higher cadre. Some of the Senior Assistant Managers, who did not secure the cut off marks, were denied promotion to the higher rank.

11. In view of the above contention raised by the

petitioner, this Court called for the relevant records to verify whether the writ petitioner was, in fact, denied promotion in the year 1988-89 as he could not secure the minimum cut off marks

12. Counsel for the writ petitioner-appellant-respondent submits that there is nothing on the record to show that his case was considered for promotion and he was not found fit as he failed to secure the cut off marks. The review petitioner is unable to demonstrate from the record that any cut off mark was fixed and the writ petitioner-appellant had failed to secure the bench mark set for promotion.

13. There was no averment in the counter affidavit, filed in the writ petition, to the effect that the comparative merit of the petitioner was considered and he failed to secure the minimum cut off marks required for promotion in the year 1988-89. The order under appeal, thus, does not suffer from any error of record and we do not find any ground to interfere with the order under appeal.

14. The review petition is accordingly dismissed.

(Samarendra Pratap Singh, J.)

I. A. Ansari, ACJ: I agree

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(I. A. Ansari, ACJ.)

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