

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.82 of 2015

IN

Civil Writ Jurisdiction Case No. 18068 of 2012

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1. Shyam Nandan Prasad Son of Late Brij Nandan Prasad resident of 202,
Akanksha Mira Palace, Akashvani Road, Khajpura P.S. Shastrinagar, District Patna

.... Appellant/s

Versus

1. The State of Bihar
2. The Secretary, Road Construction Department, Bihar, Patna
3. The Chief Engineer, Central Design Organization, Road Construction
Department, Bihar, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Prabhu Nath Pathak

For the Respondent/s : Mr. Vijaya Laxmi Srivastava, AC to SC 23

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 15-09-2017

Seeking exception to an order dated 13.01.2014 passed by
the learned Writ Court in CWJCN.18068 of 2012 rejecting the writ
petition filed by the petitioner, this appeal has been filed under Clause
10 of the Letters Patent.

Petitioner claims parity with Shri Shailendra Kumar
Sinha who was promoted on the post of Research Assistant with effect
from 26.02.1981 and thereafter Assistant Research Officer in the
Central Design Organization, Road Construction Department, Bihar,
Patna, in the light of an order dated 29.06.1988 passed by the



Jharkhand High Court in CWJC No. 5818 of 2004 and MJC No. 1736 of 2012. Grievance of the petitioner is that when he made identical claim this Court initially directed the Secretary of the Department to consider the case of the petitioner and the Secretary vide order dated 23.07.2012 having rejected the claim the writ petition was filed.

The Writ Court found that Shri Shailendra Kumar Sinha was granted promotion on the post by an order passed by the Jharkhand High Court as he was an employee working in the State of Jharkhand and, therefore, the petitioner cannot be granted the similar benefit.

Learned counsel for the petitioner argues that promotion was granted to Shri Shailendra Kumar Sinha in view of certain recommendation made by the Committee constituted in the State of Bihar on 25.04.2001 and, therefore, the petitioner is also entitled to the said benefit. The learned Writ Court has found that the benefit granted to an employee of Jharkhand cannot be claimed by the petitioner until and unless it is established that any person junior to the petitioner in the State of Bihar has been granted the promotion and the petitioner is superseded and discriminated in the State of Bihar vis-à-vis his junior employee.

We find no error in the order of the learned Writ Court dismissing the writ petition warranting reconsideration. The appeal is,



therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl

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