

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.902 of 2015
IN
Civil Writ Jurisdiction Case No. 11250 of 1999**

=====

Hari Bansh Narain Singh son of Late Mahabir Singh, Rtd. Electrical Executive Engineer (Stores and Purchase), Bihar State Electricity Board (H.Qr.) S.D.O. Road Hajipur, P.O. + P.S.- Hajipur, Distt.- Vaishali.

.... Petitioner / Appellant

Versus

1. The Bihar State Electricity Board, Vidyut Bhawan, Patna through its Chairman.
2. The Secretary, Bihar State Electricity Board, Vidyut Bhawan, Patna.
3. The Joint Secretary, Bihar State Electricity Board, Vidyut Bhawan, Patna.

.... Respondents / Respondents.

=====

Appearance:

For the Appellant/s : Mr. Subodh Kumar Jha, Advocate.

For the Respondent/s : Mr. Vinay Kirti Singh, Sr. Advocate,
Mr. Vijay Kumar Verma and
Mr. Akhileshwar Singh, Advocates.

=====

**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 06-10-2017

Heard learned counsel for the appellant and learned counsel for the respondent Board.

2. The issue which has been sought to be raised by the appellant was grant of benefit of time-bound-promotion at par or equivalent with Electrical Engineers since, according to the appellant, he was drawing same pay-scale and had parity with Executive Electrical Engineer.

3. After almost five years of superannuation of the appellant he filed a representation seeking benefits of time-bound-



promotion, etc. The same was considered and rejected vide order dated 12.01.1999 when the Writ Application came to be filed which was registered as CWJC No. 11250/1999.

4. The matter finally came to be heard by a learned Single Judge and decided on 22.10.2014.

5. The submissions made at the bar is that there are enough materials to show that there is parity between the post which the present appellant was holding as Electrical Executive Engineer of Stores and Purchase and Assistant Electrical Executive Engineer, therefore, the benefit which has been envisaged for Electrical Executive Engineers must also be extended to the appellant. He also submits that even his posting indicates that he was equivalent or at par with an Electrical Executive Engineer.

6. To avoid repetition of all the narration of facts as well as issue which has been considered by the learned Single Judge, the Court would like to rely upon the following findings or observations which has relevance:-

“On consideration of rival contentions following questions falls for consideration of this Court.

(I) Whether, in view of equivalence of pay scale on allocation of the part of the sanctioned strength of stores to be filled up from amongst Senior Store Keeper/Chief Store Keeper/ Chief Stock Verifier etc. out of the total posts available to Assistant Electrical Engineer of general cadre and at the strength of the documents as has been mentioned in the writ application, the



petitioner should be considered to have been taken in the cadre of power engineers and, thus, would be required to be given benefit and facility of Assistant Electrical Engineers and Electrical Executive Engineers?

(II) Whether the petitioner should have been extended the benefit of time bound promotion?

(III) Whether the petitioner would be entitled for special pay as has been given to other Executive Engineer Electrical?

Since all the issues are intertwined, they have been considered together.

At the outset I must point out that there appears to be a typographical error while describing the date of Notification No. 277. It appears that the date of Resolution No. 277 as printed in Annexure 1 is 29.5.96, however, it is clear from Annexure A to the counter affidavit that such resolution is dated 29.5.1976. It appears from Annexure 2, which is office order dated 8th March 1973, that certain posts were created for eight Central Stores and 32 Divisional Stores in terms of Board resolution dated 8th March 1973 and that included the posts of Assistant Controller of Store as well as Deputy Controller of Store etc. in the given scale. In view of re-organization of stores vide aforesaid Board's notification dated 8th March 1973, all the Central Stores and newly created Divisional Stores were placed under the administrative charge of the Controller of Stores. Vide Annexure 2A dated 7.3.74, the Assistant Controllers of different stores were empowered to exercise all administrative financial and technical powers vested in the field Assistant Electrical Engineer with respect to the management and conservation of stores, delivery of materials from Railways and Roadways and security of stores. It further as appears from Annexure 3, which is Agenda No. 88 of 1989-90, that pursuant to the Board's resolution no. 3698 dated 30.04.76, the Board allocated 30% sanctioned strength of Assistant controller of Stores to be filled up by promotion from amongst the Senior Store



Keepers/Chief Store Inspector/Chief Stock Verifier and the remaining posts were allowed to continue to be available to Assistant Electrical Engineer of general cadre vide Standing Order dated 15.5.76. Thereafter, on 10.6.77 the Board, vide its resolution no. 2768, decided to create 20% of the strength as selection grade posts in the pay scale of Rs. 300-50-1400/- with effect from 1.1.75. In view of upgradation of Assistant Electrical Engineer to the selection grade posts and since the benefit of selection grade was not made available to the Assistant Controllers of stores, although 20% of 14 posts altogether which would come to 3 posts of selection grade, should have been considered admissible to the Assistant Controller also, representations were filed and, thereafter, 3 shadow posts of selection grade were created and allocated to the Assistant Controllers of the Store vide Annexure 3. The petitioner was also one of the beneficiary. Thus, it is clear from the Annexure 3 that 3 posts equivalent to 20% of total 14 posts of selection grade created for Assistant Electrical Engineer were decided to be given to the Assistant Controllers of Stores with effect from 14.12.88 and for that purpose three shadow posts of selection grade in the pay scale of Rs. 800-50-1400/-, for the period specified in Annexure 3, were created. Petitioner, accordingly, was given selection grade. The aforesaid document, though clearly speaks that since some posts from Assistant Electrical Engineer were reserved were given to the Assistant Controller of Stores and three shadow posts of selection grade were created to accommodate three of them but question is whether that would mean that the petitioner and two others were taken into the engineers cadre ? Answer has to be in negative as the proceeding of meeting of Departmental Promotion Committee held on 22.1.91, which has been appended as Annexure 5 by petitioner, discloses in clear terms that it was explained to the Committee that three posts of selection grade out of the total of 206 posts of selection grade sanctioned in the cadre of Assistant Electrical Engineer (General Cadre) have been earmarked to be filled from Assistant Controller of Stores (promoted from Sr. Store Keeper / Chief Store Keeper / Chief Stock Verifier) with effect from 14.12.88 as those posts have been created for allowing retrospective promotion



to the Assistant controller of stores from the date of their eligibility. *Kalawadhi* has also been prescribed for promotion of Assistant Controller of stores to the selection grade post. It is stated in Annexure 5 that the posts of Assistant Controller of Store is equivalent to the post of Assistant Electrical Engineer but it does not speak that by granting selection grade scale equivalent to post of Assistant Electrical Engineer after creating three shadow posts would mean that the Assistant Controller of Stores were being taken in the cadre of engineers. Annexure 6 which is again an office order no. 58 dated 6.1.90 discloses that three shadow posts of selection grade were created in the cadre of Assistant Controller of Stores. The changed designation shown vide Annexure 7 would be meaningless as the Assistant Controller of stores promoted from Sr. Storekeeper / Chief Storekeeper / Chief Stock Verifier were never taken into the cadre strength of Electrical Engineers. Otherwise also petitioner has miserably failed to show as to how, only being a matriculate from Arts discipline, as would be apparent from Annexure 13 appended with the affidavit dated 31.1.2002 filed by him, he would be entitled to be taken in the technical cadre of Power Engineers. The Annexure C appended with the counter affidavit, which is a notification no. 336 dated 26.3.91, clinches the issue as it has been clearly stated therein that the two Assistant Controller of Stores including the petitioner were promoted to the selection grade posts of Assistant Controller of Stores with effect from the date mentioned against each of them. The petitioner appears to have been promoted with effect from 10.1.1978. Similarly, vide Annexure D dated 22.3.91, the petitioner was promoted to the posts of Deputy Controller of store with immediate effect.”

7. The learned Single Judge, therefore, has rightly come to a conclusion that merely because there is similarity of Selection Grade in the pay-scale which had been given to an Assistant Controller of Stores and is similar to an Assistant Electrical Engineer, they do not



become one and the same. The two cadres are different, their entitlements are different and the parity does not flow only from pay-scales.

8. Merely because the erstwhile Electricity Board created further avenues of promotion for people, who are working in the Stores and gave equivalence of pay scale at par with an Assistant Electrical Engineer, the benefits which a cadre of Assistant Electrical Engineer derives cannot be extended to people of Stores.

9. Appeal has no merit and it is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.10.2017
Transmission Date	N/A

