

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1774 of 2015
IN
Civil Writ Jurisdiction Case No. 9126 of 2008**

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Nitya Nand Sahay, son of Late Kritya Nand Sahay, resident of Mohalla -
Puraniganj, P.S. Kasim Bazar, P.O. & District - Munger.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Mines, Government of Bihar, Patna.
3. Director, Department of Mines & Geology Government of Bihar, Patna.
4. Deputy Director, Department of Mines & Geology, Govt. of Bihar, Patna.
5. Dwarka Das S/o not known to the petitioner. Working as Office Superintendent (now retired) Office of Deputy Director of Mines, Department of Mines and Geology, Magadh Circle, Gaya.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mukul Sinha, Mr. Rajesh Kumar
Mr. Deep Anshuman

For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 08-09-2017

Seeking exception to an order passed by the learned Writ

Court on 06.08.2015 in CWJC No. 9126 of 2008 this appeal has been
filed under Clause 10 of the Letters Patent.

The petitioner was working in the Department of Mines
& Geology. He was inducted as Lower Division Clerk vide Annexure-
7 and it is his case that he has passed Final Accounts Examination
conducted by the Board of Revenue in the year 1971. It is the
grievance of the petitioner that between 1971 and 1975 promotions



were granted in illegal manner and thereby adversely affecting the right of the petitioner so also his seniority and, therefore, he had represented the matter on various dates right from 25.02.1976 and when nothing was done he filed a writ petition before this Court being CWJC No. 10065 of 1997 which was disposed of directing the respondents to decide his representation.

The matter was kept pending, and in the year 2001, the petitioner again filed the writ petition seeking grant of ad-hoc promotion. The Director, Mines, was directed to look into the matter and finally when his claim was rejected on 04.03.2008 vide Annexure-1, he filed the writ petition in question.

Grievance of the appellant is that inspite of the fact that he has been repeatedly representing in the matter and has been ventilating his grievance, the learned Writ Court on account of the fact that the petitioner has retired in the year 2001 and now with regard to his claim nothing can be done and dismissed the writ petition without considering the dispute on merit.

We have considered the submission made by learned counsel for the appellant and on going through the record we find that the representation of the petitioner has been decided by a detailed order passed by the Secretary of the Department on 4th March, 2008 and from the reasons indicated in the order we find that draft seniority



list for the year 1975-76 was circulated wherein the name of the appellant was shown much below the private respondents with whom the appellant was comparing his case, but the appellant's contention is that the seniority list was issued without notice to him. Thereafter, the seniority list was again published in the year 1988. Here also the name of the petitioner was shown below the private respondents. In spite of the fact that the seniority lists were published in the year 1975-76 and 1988, the petitioner on his own showing, approached this Court only in the year 1999, i.e. two years prior to his retirement. That was one of the reasons why the learned Writ Court found that now no interference can be made as the petitioner has retired in the year 2001 and the respondents against whom he had a grievance have also retired. That being the case, the petitioner for the first time invoked the jurisdiction of this Court on 26.07.1999 and even though the representation was directed to be decided the learned authority has considered various aspects of the matter and rejected the representation on 04.03.2008.

We find from the record that the matter pertains to correction of seniority lists, the first one was published in the year 1975-76 and another was in the year 1988 and the petitioner except for filing the representation had approached this Court for the first time in the year 1997, i.e. after ten years. Now we see no reason to



direct for correction of the seniority list in considering the case for promotion of the appellant 16 years after his retirement which took place in the year 2001. It is not a case where immediately after the seniority list was published in the year 1975-76 or 1988 the petitioner approached this Court. In fact, the petitioner approached this Court for the first time in the year 1998, i.e. on the verge of his retirement, when only 3 years service was left for his superannuation.

If taking note of all the factors the learned Writ Court has refused to interfere into the matter, we see no reason to make any indulgence warranting reconsideration of the order of the learned Writ Court.

The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	11.09.2017
Transmission Date	N.A.

