

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.526 of 2014
IN
Civil Writ Jurisdiction Case No. 1146 of 1998**

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1. The State Of Bihar
 2. The Agriculture Production Commissioner cum Secretary, Department of Agriculture, Govt. of Bihar, Vikash Bhawan, Patna
 3. The Deputy Secretary, Department of Agriculture, Govt. of Bihar, Patna
 4. The Under Secretary, Department of Agriculture, Govt. of Bihar, Patna
 5. The Additional Secretary, Department of Agriculture, Govt. of Bihar, Patna

.... Appellant/s

Versus

1. Sri Shailendra Narain Sinha, Son of Late Laxmi Narayan Sinha, Resident of A/15 D-1 Sector, Kanker Bagh, Patna- 800020 (Writ Petitioner)
2. The Accountant General, Bihar, Patna (Respondent)

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. R.B.N.Singh, AC to GA-10

For the Respondent No.1 : Mr. Uma Kant Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 16-03-2017

Since the writ application of the private respondent No. 1 has been allowed vide order dated 13.12.2011 giving a direction upon the respondent-authorities to extend the same benefit which has been granted to the juniors in matter of grant of Junior Selection Grade, the State is aggrieved and has filed the Letters Patent Appeal.

The private respondent was appointed in the Bihar Subordinate Agriculture Service on the post of Agriculture Inspector on 18.05.1957. Thereafter he has earned his promotion based on his



seniority and position in the Gradation List vide notification dated 30th of May, 1992 and the benefit of promotion in the Junior Selection Grade was granted. Subsequently, the State Authorities on the basis of reworking of the Gradation List, shifted the date for some juniors. The said benefit was sought to be denied to him on the ground that the private respondent was shown junior in the Gradation List. When he claimed the benefit for shifting the date to 1.11.1988, the State refused to do so and therefore, the writ application was filed.

From a reading of the order of the learned Single Judge, it is evident that the issue of seniority of the private respondent was settled in a previous writ application which was CWJC No. 5993 of 1994. The private respondent had superannuated in the year 1994 and if something was sought to be done detrimental to his interest by juggling around with the Gradation List after his superannuation, it cannot be done since it was held to be valid in the previous round of litigation.

The learned Single Judge decided to set aside memo no. 805 dated 19.02.1997 and gave direction as under:-

“Since the respondents have accepted the position that the petitioner was also entitled to benefit as was available to the persons named in Annexure-6 of the writ petition from that very date i.e., 30.5.1992, which was also notified by order dated



19.2.1997, this Court holds that the respondents are bound to extend the same benefit which was given to the other persons by notification dated 20.1.1993.

For the reasons aforesaid the memo no. 805 dated 19.2.1997 as far as it relates to the petitioner is hereby set aside. The petitioner shall be entitled to the same benefits as has been given to the persons named in Annexure-6 in CWJC No. 5993/94 and his date of effective promotion shall also to be shifted as has been done in their case.

The petitioner shall also be entitled to all consequential benefits. The order is further clarified that in case of further shifting of the effective date of promotion of persons named in Annexure-6 which as soon as been shifted with effective from 1.4.1981, the same benefit shall be granted to the petitioner also. Consequent upon this, the petitioner shall also be entitled to refixation of his retiral benefits with effect from 24.10.1994 and also to any other benefits which the persons whose name figures in the notification dated 30.5.1992 have been given.

The writ petition stands allowed to the extent indicated above.

In view of the fact that the petitioner has superannuated in 1994 itself, let the exercise, as directed by this order, be completed within six months from the date of receipt/production of this



order upon respondent no.2.”

The direction of the learned Single Judge granting benefit to the private respondent, therefore, was in the interest of justice and the State’s position and stand taken in their decision dated 19.2.1997, which was set aside, is obviously erroneous in the given facts.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

S.Pandey/-

(Nilu Agrawal, J)

AFR/NAFR	NAFR
CAV DATE	NA
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