

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.332 of 2012

In

Civil Writ Jurisdiction Case No.10649 of 2010

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1. The State of Bihar through the Principal Secretary, Water Resources Department, Bihar, Patna
 2. The Chief Engineer, Water Resources Department, Chief Office, Patna
 3. The Executive Engineer, Western Embankment Division, Kunauli, Birpur, Supaul

... ..Respondent Nos.1 to 3- Appellant/s
Versus

1(i) Smt. Bimla Devi, wife of Arun Kumar Srivastav

1(ii) Rajeev Kumar Sinha

1(iii) Sanjeev Kumar Sinha

1(iv) Dhananjay Kumar Sinha @ Dhanjeev Srivastava

R/O House No. 99/51, Malviya Road, Gorge Town, Allahabad (U.P.)

.... Petitioner/ Respondent 1st Set.

2. The Accountant General, Bihar, Patna

... .. Respondent No.4/ Performa Respondent 2nd Set

Appearance :

For the Appellant/s :

For the Respondent/s : Mr. Dhananjay Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 14-09-2017

Seeking exception to an order passed by the learned Writ Court on 14.11.2011 in CWJC No.10649 of 2010, this appeal has been filed by the State Government under Clause 10 of the Letters Patent.

Respondent employee filed the writ petition in question and it was his grievance in the writ petition that he has been granted first time bound promotion with effect from 1993 computing his period



of service with effect from 1983, whereas his period of service should be computed with effect from 1973 when he was employed in the work charge establishment. The State Government resisted the aforesaid claim on the ground that period for 1973 to 1983 cannot be counted for the purpose of granting time bound promotion as during this period, the petitioner was in the work charge establishment and as per the resolution of the State Government dated 27.03.1987, only period of service rendered after coming into the regular establishment can be counted for the purpose of granting time bound promotion. The learned Single Judge has considered this aspect of the matter and found that this resolution dated 27.03.1987 has been considered in the case of **Brajnandan Kumar Sinha Vs. The State of Bihar & Ors.**, 1996(2) PLJR 231, and in para 7 thereof, the issue has been discussed and answered against the State Government. Based on the aforesaid, the learned Writ Court has allowed the writ petition.

Even though learned counsel for the State Government vehemently argued that the period spent in the work charge establishment cannot be counted, we find that apart from the judgment in the case of **Brajnandan Kumar Sinha** (supra), benches of this Court in the case of **Ram Bachan Tiwari Vs. State of Bihar & Ors.**, 2011(2) PLJR 812, based on an earlier judgment in the



case of **Mahendra Nath Choudhary v. The State of Bihar & Ors.** CWJC No.9254 of 2006 decided on 06.05.2008, has laid down the principle that there cannot be any distinction between an employee working for the full time in the work charge establishment and regular employee for the purpose of grant of time bound promotion. That apart, another Bench, in the case of **Asharfi Paswan Vs. The State of Bihar & Ors.**, 2005 (4) PLJR 259, has also approved the aforesaid principle and in all these cases, the very circular dated 27.03.1987 has been considered and decision taken against the State Government. We see no reason to take a different view. The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
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