

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1502 of 2012

Arising out of

Civil Writ Jurisdiction Case No. 15306 of 2011

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1. The State of Bihar, Through the Secretary Water Resources Department, Sinchai Bhawan, Patna
 2. The Under Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna
 3. The Secretary, Department of Finance, Government of Bihar, Main Secretariat, Patna
 4. The Joint Secretary, Department of Finance, Government of Bihar, Main Secretariat, Patna

.... Appellant/s

Versus

1. Ishwar Deo Prasad Son of Late Gopal Prasad Resident of Mohalla- Gannipur, P.S.- Kazi Mahammadpur, Distt.- Muzaffarpur
2. Ram Surat Tiwary Son of Late Awadhesh Tiwary Resident of Mohalla- Jai Prakash Nagar, Chandwara, P.S.- Muzaffarpur Sadar, Distt.- Muzaffarpur
3. Kula Nand Jha, Son of Late Ajab Lal Jha, Resident of Mohalla- Pankha Toli P.S. Kazi Mohammadpur, Distt.- Muzaffarpur
4. Shatrughan Prasad Shashi, Son of Late Ram Newaj Shashi, Resident of Mohalla- Sahja Nand Nagar, P.S.- Muzaffarpur Sadar, Distt.- Muzaffarpur
5. The Accountant General, Bihar, Officer at Bir Chand Patel Path, Patna

.... Respondent/s

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Appearance :

For the Appellants : Mr. Jainendra Kumar Sinha, Advocate
For Accountant General : Mr. Raj Nandan Prasad Jaiswal, Advocate
For the Respondents : Mr. Kishore Kumar Thakur, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 10-04-2017

The only ground that was canvassed before us in this appeal under Clause 10 of the Letters Patent was that once an employee has obtained promotion in the regular stream as per the service rule, he would not be entitled to a promotion under the Time Bound Promotion Scheme. It was stated that the purpose of the Time Bound Promotion Scheme is to ventilate the grievance of an employee who is stagnating in a post without any promotion and once in the regular exercise he is granted promotion, the benefit of Time Bound Promotion cannot be granted and as this aspect of the matter has not been taken note of in its right perspective by the learned Writ Court, this appeal is filed. This in sum and substance is the only ground canvassed by the State Government in this appeal.

2. However, learned counsel for the respondent employees who have now retired invites our attention to judgments (Annexure-R/3 filed along with the return) in C.W.J.C. No. 6650 of 2003 (Rajendra Prasad Singh & Ors. Vs. The State of Bihar & Ors.) and various analogous matters decided by a common order passed on 29.10.2009 wherein from Paragraph 9 onwards this specific issue raised by the State Government has been addressed and it has been



found that based on the resolution passed by the State Government on 30th of December, 1981 that the Time Bound Promotion was introduced w.e.f. 01.04.1981 to such class of employees who had not earned their first or second promotion on completion of 10 or 25 years of service. With regard to the Junior Engineers like the respondent employees who were promoted as Assistant Engineers in or around 1978 prior to introduction of the Time Bound Promotion Scheme in the year 1981, it was held that these employees cannot be deprived of the benefit of Time Bound Promotion if they had completed 10 years of service on the post of Assistant Engineer on or around the year 1988. Addressing this issue in detail in the backdrop of Government circular dated 07.03.1990, we find that similar contentions raised vis-à-vis the State Government and the respondent employees have already been rejected by this Court as indicated hereinabove and that being the factual position, now the appellants cannot seek to reopen this issue. The learned Writ Court also has taken note of this vital aspect of the matter and in the impugned order passed, has reproduced the order passed in the earlier writ petition which has attained finality and rejected the objection. In doing so, we find no error committed by the learned Writ Court warranting reconsideration. However, the legal question may be available to be canvassed by the State Government if permissible in a given case where the lis between the employees and



the State Government is not finalized in the manner as has been done in the present case.

3. Accordingly, in the present case, finding no ground for interference, the Letters Patent Appeal stands dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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