

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14497 of 2009

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Dr.Bindeshwari Singh S/O Sri Ramjanam Singh Vill- Bishunpur Jagdish P.S
Marhourah, Distt Saran

.... Petitioner/s

Versus

1. The Union Of India Through The Secretary Ministry Of Agriculture New Delhi
2. The State Of Bihar Through Its Chief Secretary Old Secretariat, Patna
3. The Secretary, Department Of Animal Husbandary And Fishry Vikash Bhawan,
Patna -15
4. The Director , Department Of Animal Husbandary And Fishry Vikash
Bhawan,Patna-15
5. Under Secretary, Entitlement Cell , Finance Department Govt. Of Bihar, Patna
6. A.G. Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Kumar Srivastava, Advocate
For the State : Mr. A.K. Pathak, AC to G.P.21

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

Date: 18-04-2018

Heard Mr. Bipin Kumar Srivastava, learned counsel for
the petitioner and Mr. A.K. Pathak, learned Assisting Counsel to
G.P.21 for the State.

The petitioner prays for an appropriate writ in the
nature of mandamus commanding the respondent authorities to grant
Time Bound Promotion to the petitioner which according to his
assessment is due from 1990. The petitioner also prays for
consequential benefits.

Fact of the case as it transpires from the records is that
this petitioner was appointed as a Block Animal Husbandry Officer on



19.5.1980. He passed the Hindi noting and drafting examination on 15.4.1984 and also cleared the departmental examination in the year 2001. According to the petitioner as per the stipulations present in the Time Bound Promotion Scheme, he was entitled to Time Bound Promotion with effect from 19.5.1990, i.e., when he completed 10 years of service on the post but since it was not forthcoming, he came before this Court raising such grievance through C.W.J.C. No.9184 of 2001. The writ petition was considered and disposed of by a Co-ordinate Bench of this Court vide judgment and order passed on 20.12.2004 with a direction to the respondents to consider the claim of the petitioner for promotion prior to the abolition of the Time Bound Promotion Scheme and pass appropriate orders in accordance with law. The order was not complied which led to filing of contempt application bearing M.J.C. No.1242 of 2005. Since the claim of the petitioner for Time Bound Promotion has been rejected that the contempt application was disposed of leaving it open for the petitioner to question the rejection in appropriate proceeding and that is how the present writ petition is filed.

A counter affidavit is filed on behalf of the respondents and in which the position has been clarified at paragraph-10 and 11 in which it is stated that though the petitioner was appointed on a Class-III post of Block Animal Husbandry Officer on 19.5.1980, he was declared as a Gazetted Officer Class-II along with others vide



Notification No.7794 dated 16.8.1986. It is further mentioned that vide departmental notification dated 17.11.1993, a gradation list of 1809 Animal Husbandry Officers (Class-II) was published in which the name of the petitioner appeared at sl.no.1559. Obviously once the petitioner has crossed over from Class-III post of Block Animal Husbandry Officer to Class-II posts of Animal Husbandry Officer vide the notifications referred to above, the calculation of period for the purpose of Time Bound Promotion would begin from the said promotion date and not from the date of initial appointment. Although the petitioner claims time bound promotion calculating the period with effect from 19.5.1980, i.e., the date of his initial appointment on Class-III post of Block Animal Husbandry Officer but in view of developments which has been discussed at paragraph 10 of the counter affidavit which confirms that the petitioner initially appointed as a Class-III was declared a Class-II Officer vide notification dated 16.8.1986 on the post of Animal Husbandry Officer and thus his claim for Time Bound Promotion from earlier date would be misconceived. Paragraph-11 of the counter affidavit further confirms that the scheme of Time Bound Promotion got abolished with effect from 1.1.1996. Meaning thereby, since after the up-gradation of the petitioner from Class-III to Class-II post on 16.8.1986 before he would complete 10 years period on such post, the scheme itself was discontinued with effect from 1.1.1996. It is by virtue of such circumstance that the



petitioner though was not given Time Bound Promotion but has been considered for similar benefit under the new scheme of Assured Career Progression as explained in paragraph-15 of the counter affidavit. It is also mentioned that whatever was found admissible to the petitioner under the Assured Career Progression Scheme has been provided to him and there is no such dispute.

In the circumstances discussed, there is absolutely no infirmity with the decision of respondents to disallow Time Bound Promotion to the petitioner as he had already been promoted from Class-III to Class-II and, thus, had obtained the benefit of regular promotion. In so far his claim for such time bound promotion on Class-II is concerned, it is unfortunate that before he could complete the requisite of ten years period on Class-II post, the scheme got abolished.

In the circumstances noted, no case for indulgence is made out. The writ petition is disposed of.

(Jyoti Saran, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01-05-2018
Transmission Date	

