

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13291 of 2010

BASHISHTHA NARAIN SINGH S/O LATE SATYA NARAYAN SINGH
R/O VILL.- DHEBAR, P.S.- DARAUNDA, DISTT.- SIWAN

... Petitioner

Versus

1. THE STATE OF BIHAR
2. THE PRINCIPAL SECRETARY WATER RESOURCES DEPTT., PATNA
3. THE UNDER SECRETARY WATER RESOURCES DEPTT., GOVT. OF BIHAR, PATNA
4. THE CHIEF ENGINEER, CENTRAL DESIGN AND RESEARCH ANISHABAD, WATER RESOURCES DEPTT., PATNA
5. THE SUPERINTENDENT ENGINEER RESEARCH AND TRAINING CIRCLE, KHAGAIL, PATNA
6. THE EXECUTIVE ENGINEER RESEARCH AND TRAINING DIV. NO.3, KHAGAIL, PATNA
7. THE ACCOUNTANT GENERAL, BIHAR, PATNA ... Respondents

Appearance :

For the Petitioner	:Mr. Shailesh Kumar Sharma, Adv.
For the State	:Mr. Ram Vinay Prasad Singh @ Sanjay, AC to AGXII
For AG	:Mrs. Nivedita Nirvikar, ASC with :Mr. Prabhakar Sahay, AC to ASC

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

5 03-04-2018 Heard the learned counsel for the petitioner and the learned counsel appearing for the State.

In the present case, the petitioner has raised the limited grievance. Though he has been given the benefit of junior selection grade with effect from 01.04.1984 vide Memo No. 1315, dated 26.09.1988, but, having been denied the benefit of senior selection grade, which has been given to his juniors with effect from 01.04.1984, so he makes a prayer that he is entitled to the benefit of senior selection grade from the date his juniors have been given the benefit.

The petitioner was initially appointed as Silt Analyst,



later on the post of re-designated as Research Assistant and was working under the work charge establishment since 07.02.1973 in the scale of Rs.335-555/-. Whereafter the services of the petitioner was regularized and was taken into regular establishment with effect from 16.08.1974 in the said scheme. Later on Silt Assistant and Research Assistant were merged and all were called as Research Assistant. The petitioner was promoted to the post of Assistant Research Officer on 16.12.1977, but, later his promotion was cancelled and extra amount paid to the petitioner having been recovered.

On the direction given in C.W.J.C. No. 2918 of 1992 (R) a final gradation list was prepared in which the name of the petitioner is standing at serial no. 18, completely evident from notification, dated 20.02.1995, whereafter persons were given the benefit of junior selection grade and senior selection grade vide memo no. 5118, dated 09.08.1990, and in the office order it has been recorded that the records of some persons are not available, the post was kept reserved for them and seniority would remain intact, the serial number of the petitioner was 18, as such, on the ground of non-availability of record, the petitioner and other colleagues were not given the benefit, but, later on has granted benefit vide office order no. 1315, dated 26.09.1998, but, only granted junior selection grade.

The petitioner approached the Department for grant of



benefit as that of his junior whereafter he has received a letter no. 4371, dated 04.11.2009, asking reasons why he approached too late, replied to Additional Secretary, vide explanation dated 14.01.2009, wherein he explained that he is never late, always written letter, requested to grant the benefit even included the representation that was addressed to him, but, the Government failed to pay attention to grant the benefit of senior selection grade. So grievance is limited that he should have been given the due benefit as has been given to other junior persons.

In the counter affidavit seniority list of Research Assistant, dated 09.03.1990, has been attached where the name of the petitioner is absent. The explanation has been given by the petitioner that as during that period the petitioner was holding the post of Assistant Research Officer, i.e., officer cadre and, as such, appearance of his name in 1980 does not arise and has, further, drawn the attention to the observation made by the Court in C.W.J.C. No. 2918 of 1992 (R) wherein the Court has recorded observation that as the petitioner was not holding the post of Research Assistant, but, he was holding the post of Assistant Research Officer, as such, his name was not there in the list.

Having considered the rival contentions of the parties, the petitioner was promoted earlier as Assistant Research Officer and later on on the objection raised by Chandra Kishore



Sahay, who has taken plea that he was deprived of the promotion though the petitioner was junior and, accordingly, he was brought down to the level of Research Assistant. Here is only entitlement of senior selection grade of Research Assistant. The office order, dated 09.08.1990 (Annexure 3), shows that ten persons, including the petitioner, were not mentioned in the list of beneficiary, but, the post were kept reserved for them and later on he has been granted the benefit of junior selection grade whereas his junior has been granted the senior selection grade. The obligation lies on the Department that when the Department has granted the benefit of senior selection grade to the juniors of the petitioner, it is but natural the petitioner can not be deprived of the same from the date the juniors having been given, as depriving the petitioner from the said benefit is against the Article 16 of the Constitution of India.

In such view of the matter, this Court directs the respondents authorities to examine the case of the petitioner and grant the monetary benefit of senior selection grade from the date the juniors having been given.

With this direction, this petition is **allowed**.

(Shivaji Pandey, J)

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