

IN THE HIGH COURT OF JUDICATURE AT PATNA**Civil Writ Jurisdiction Case No.8896 of 2008**

=====

Pitamber Jha, son of late Basukinath Jha, resident of village-Manikpur, P.S.-
Tarakpur, District-Munger.

.... Petitioner

Versus

1. The State of Bihar
2. Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna.
3. Deputy Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna.
4. The Secretary, Department of Finance, Government of Bihar, Patna.
5. Accountant General (A & E), Bihar, Patna.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Dharendra Kr. Jha, Advocate
For the Respondent/s : Mr. Jitendra Kumar, A.C. to A.A.G.14

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 28-03-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. In this case, the petitioner is seeking the relief that the period he has discharged the duty as Assistant Registrar, Co-operative Societies, should also be taken into consideration for the purposes of grant of time bound promotion. Further, the claim has been made that vide Notification bearing no.12677 dated 13.12.2006 he has been granted the notional promotion from 19.06.1998, but the actual financial benefit of promotion has been granted from



01.06.1999. Hence, he has claimed that he should be paid difference of salary from the date of notional promotion to actual promotion.

3. The petitioner appeared in the 23rd Combined Competitive Examination conducted by the Bihar Public Service Commission and he qualified, where-after he was appointed as Assistant Registrar, Co-operative Societies, vide Notification no.2426 dated 20.09.1978, accordingly, he joined the post and started discharging the duty. In the meantime, vide Notification no.1112 dated 28.04.1977 he was transferred to the Labour Department, later on, again the petitioner was made Deputy Collector, vide Notification no.8134 dated 27.06.1981 and in paragraph no.3, it has been mentioned that his seniority will be compared with Balkrishan Jha and with respect to other rest officers their seniority would be counted from 10.10.1979. The date of appointment of Balkrishan Jha has been treated to be 01.04.1977. The petitioner has been granted the time bound promotion vide Notification no.2080 dated 23.03.1992 with effect from 31.07.1991 and further the petitioner was promoted to the next higher grade vide Notification no.2647 dated 31.03.1999 with effect from the date he has joined the post as he has joined the post on 01.06.1999. Later on, this Notification was modified vide Notification no.12677 dated 13.12.2006 (Annexure-8), by which he has been granted promotion



notionally with effect from 19.06.1998 and financial benefit from 01.06.1999 i.e. on the date he assumed the charge.

4. Learned counsel for the petitioner has raised two grievances. First grievance with regard to the period he has discharged the duty as Assistant Registrar, Co-operative Societies, as he was appointed through the Combined Competitive Examination and later on, he was shifted to the Administration Department, so the period he has spent as Assistant Registrar cannot be ignored by the State in view of the fact that that period has been treated for the purposes of pension, which reflects from letter dated 08.05.2008 addressed to the petitioner, where it has been mentioned that the period which he has discharged the duty as Assistant Registrar, Co-operative Societies, will not be counted for time bound promotion, but another letter dated 06.05.2008, addressed to the Accountant General, Bihar, Patna, wherein it has been mentioned that the period from 06.10.1976 to 20.07.1981 will be counted for the purposes of pension. The reason has been assigned in the counter affidavit that prior approval of the Finance Department was not taken. When the petitioner has joined the post of Deputy Collector at the behest of the State Government, the reason which has been assigned that prior approval of the Finance Department was not taken does not stand to the reason, especially, in the



circumstances, when the period has been considered for the purposes of pension not for time bound promotion. It does not stand to the reason that the period will be counted for the pension not for the time bound promotion and that too he has discharged the duty for the State after his appointment as Assistant Registrar, Co-operative Societies. The stand of the State is completely not acceptable to this Court and the same is hereby rejected.

5. In such view of the matter, this Court directs the respondents that the period which the petitioner has spent as Assistant Registrar, Co-operative Society till his transfer to the post of Deputy Collector will be taken into consideration for all purposes including for time bound promotion. With respect to grant of actual benefit of promotion, it appears that the Government itself has granted the promotion notionally from 19.06.1998. When the Government has given the notional benefit then it must be attached with the financial benefit, he cannot be deprived of the financial benefit and as such, the petitioner is entitled to the promotion inclusive of financial benefit with effect from 19.06.1998 and to that extent the Notification no.12677 dated 13.12.2006 (Annexure-8) is directed to be modified and the petitioner should be given the benefit of the same.



6. Accordingly, this writ petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	31.03.2018
Transmission Date	N/A.

