

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14127 of 2011

NAWAL KISHORE SHARMA S/O Late Indra Deo Singh R/O Vill.- Domeya,
Police Station- Gurua, Distt.- Gaya

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR and ORS
2. The Deputy Secretary, Science And Technology, Govt. Of Bihar, Patna
3. The Joint Secretary, Science And Technology, Govt, Of Bihar, Patna
4. The Additional Secretary, Science And Technology, Govt, Of Bihar , Patna
5. The State Of Jharkhand through the Secretary, Science And Technology, Govt, Of Jharkhand, Ranchi
6. The Deputy Secretary, Science And Technology, Govt. Of Jharkhand, Ranchi
7. The Director, Science And Technology Govt, Of Jharkhand, Ranchi
8. The Principal. Principal Incharge, Govt. Women'S Polytechnic College, Jamshedpur, Distt.- Jamshedpur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Yogal Kishore
		Mr. Virendra Prasad
For the State of Bihar		Mr.Nishant Kumar Jha, AC to SC 28
For the State of Jharkhand		Mrs Manjari Nath

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 05-08-2019 Heard learned senior counsel for the petitioner and learned counsel for the respondents-State as well as counsel for the State of Jharkhand.

Petitioner joined as an attendant in a private Engineering college, namely, Magadh Engineering College, Gaya on 28.03.1984. The college was taken over by the State Government. In exercise of taking over, statutory Screening Committee was constituted to examine the claim of the



employees as per staffing pattern for the purpose of their absorption. Petitioner was absorbed ignoring the claim of others.

Writ petition bearing CWJC no. 664/1995 was filed by aggrieved persons who were left out from absorption. Petitioner was respondent no.12 in the said writ proceedings. After considering the entire matter in detail and hearing the parties, writ petition was disposed of with liberty to the respondent-authorities to pass a fresh order for displacing any of such respondent as the instant petitioner, if he found that the petitioners of the said writ petition were senior and ignoring their claim, instant petitioner and other private respondents have been absorbed.

Pursuant to that exercise, authorities have issued office order dated 29.03.2011 wherein it has clearly been recorded that date of joining of the instant petitioner is 28.03.1984 whereas date of joining of the petitioner of CWJC no. 664/1995, namely, Balmiki Singh is 22.03.1984. Petitioner was junior by six days. Accordingly, petitioner has been removed to make way for him in compliance of the order, and as a consequence of the direction passed by this court on 25.08.2009 in the proceedings arising out of CWJC no. 664/1995. The order passed in compliance of the said order is



not disputed in so far as date of joining in service of Balmiki Singh is concerned.

Learned Senior counsel further submits that in light of circular of the State Government in Human Resources Department dated 10.05.1991, as petitioner was working since prior to 10.02.1986 he should have been continued subject to availability of the vacancy in future. This issue has been raised by the petitioner for the first time in the instant proceedings that also by way of supplementary affidavit filed at the end of the instant proceedings. Issue was neither in the earlier round of litigation nor in the writ petition which has been filed in the instant proceedings.

In the circumstance, this court would observe that applicability of the said circular and grant of benefit under the same in respect of the petitioner should be examined by the respondent-authorities. Petitioner would be at liberty to approach respondent no.3 placing reliance on the circular dated 10.05.1991 for appropriate order. Order impugned in the instant proceedings dated 29.03.2011 is based on, and in consequence of order passed in CWJC no. 664/1995 which was passed after hearing the petitioner and respondent no.12 of the instant proceedings. The order passed in CWJC no. 664/1995 has also



never been assailed by the petitioner. This court is thus not inclined to interfere with the order dated 29.03.2011.

Accordingly, this writ petition is dismissed with liberty as aforesaid.

(Madhuresh Prasad, J)

s.hassan/-

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