

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 4788 of 2014

=====

Upendra Prasad Yadav, aged about 58 years, S/O Late Hukum Lal Yadav
Resident Of Village Nado, P.O. Domgarha, P.S. Saur Bazar, District Saharsha.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Water Resources Department, Government Of Bihar, Patna.
3. The Special Secretary, Water Resources Department, Government Of Bihar, Patna.
4. The Joint Secretary, Water Resources Department, Government Of Bihar, Patna.
5. The Under Secretary, Water Resources Department, Government Of Bihar, Patna.
6. The Chief Engineer, Water Resources Department, Purnea.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : M/s Rajeev Kr Singh, Mukesh Kr Singh, Advocates
For the Respondent/s : Mr Manoj Kumar Sinha, AC to GA IX

=====

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 21-01-2019

Heard Mr Rajeev Kumar Singh appearing on behalf of
the petitioner as well as the respondent-State.

2 The petitioner claims benefit of promotion to the
post of Correspondence Clerk with effect from 31.10.1979. The
benefits have been granted to the petitioner from a much later date
with effect from 07.06.2008. It is submitted by the petitioner's
counsel that the benefit of the promotion to the post of
Correspondence Clerk with effect from 31.10.1979 was being
denied to the petitioner although it has been granted to the other



six persons in respect of whom the Department had stayed grant of the benefits of promotion to the post of Correspondence Clerk. Under order dated 17.11.1979, the grant of benefit to the promoted post of Correspondence Clerk was stayed by the Department. It appears that subsequently, the same has been granted to other six persons with effect from 31.10.1979 that is the date of initial/original grant of promotion on the post of Correspondence Clerk. The petitioner has been left out. It is his submission that such treatment amounts to discrimination in the matter of grant of promotional benefits in view of the decision of the Government dated 31.10.1979 by which all seven persons have been promoted as Correspondence Clerk.

3 The respondents have filed a counter affidavit. No basis has been brought out in the counter affidavit so as to treat the petitioner differently than the other six who have been granted promotion with effect from 31.10.1979. In paragraphs 6 and 19, a stand has been taken that in view of certain orders passed by this Court, the stay, in respect of other six persons, had been withdrawn and benefits have been granted to them of the post of Correspondence Clerk with effect from 31.10.1979. The essence of the submission is that since there is no specific order of this



Court in favour of the petitioner, the benefit has not been granted to the petitioner.

4 In this connection, this Court would draw attention of the authorities towards Clause 4.C (1) of the Bihar State Litigation Policy, 2011 (for brevity, *2011 Policy*). The same deals with “*covered matters*”. The State has adopted a policy that in respect of all matters, which are covered, the claims should be considered under Clause 4.C (1) of the 2011 Policy and be disposed of at the level of the Department itself without compelling the litigant to come to the Court. Such policy has been adopted to ensure that the Government Departments would be acting as efficient litigants.

5 In view of the State’s own 2011 Policy, merely for the fact that the petitioner has not obtained an order from the Court cannot be a ground to deny the petitioner the same benefits granted to other similarly situated and effected by the same order dated 17.11.1979 without there being any distinguishing circumstance.

6 This Court would, therefore, direct that the claim of the petitioner be considered in light of Clause 4.C (1) of the 2011 Policy by respondent No 6, the Chief Engineer, Water Resources Department, Purnea and the decision be communicated to the petitioner in this regard expeditiously.



7 If any dues are found payable to the petitioner, the same should also be paid having regard to the 2011 Policy within a period of three months from the date of receipt/production of a copy of this order.

8 The writ petition stands disposed of.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.01.2019
Transmission Date	NA

