

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2172 of 2021

1. The Union of India through Director General, Department of Post, New Delhi - 110001.
 2. The Chief Post Master General, Bihar Circle, G.P.O. Complex, Patna - 800001.
 3. The Director of Accounts (Postal), G.P.O. Complex, Patna - 800001.
 4. The Superintendent of Post Offices, Nawada Postal Division, Nawada - 805110.
 5. The Inspector of Post (West), Nawada Postal Division, Nawada - 805110.
- Petitioners.

Versus

Kapildeo Singh Son of Late Sahdeo Singh, Resident of Village - Sirsa, P.O. Baijnathpur, P.S. - Sitamarhi, District – Nawada. Respondent.

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Verma, Advocate.
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN)

Date : 21-08-2021

Heard Mr. Rajesh Kumar Verma, learned counsel appearing for the Union of India through video conference. Learned counsel for the petitioners has filed an undertaking that all the defects pointed out by the stamp reporter shall be removed, and compliance with the conditions of the notices of this Court with regard to acceptance of e-filing shall be made, without delay immediately upon resumption of normal physical functioning of the Court, and in any event within one month thereof.

2. The present writ petition is directed against the



order dated 21.03.2018 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter in short as 'CAT') in O.A. No.250 of 2017, whereby the original application has been allowed. The relevant portion of the impugned order is reproduced herein below:-

"11.The Hon'ble Apex Court, in the case of P.N. Premchandran vs. State of Kerala (supra), held that "the delay in convening the DPC is administrative lapse, promotee cannot be held to suffer for no fault on their part". The Hon'ble High Court, Patna in the case of i.e. CWJC No.3893 of 2009 (supra) observed as under:-

"in the present case the petitioners case for absorption /promotion to group 'D' posts should have been considered on or before 10th of July 1994 whereas it was actually considered later and the promotion order dated 21.02.1995 was issued after a delay of approximately 08 months from the due date. The benefit of such delay in the background of facts and the departmental policy decisions must go to the petitioner. By grant of such benefits, the petitioner would be entitled for pension which is the very purpose of the policy decision that group 'D' post should be given to those who are below 50 years of age.

In view of the aforesaid facts and discussion and particularly, in view of the judgments rendered by the Tribunal against the postal authority themselves, as contained in annexure-10 and 11, the writ petition is allowed. The respondents are directed to treat the petitioner as having completed minimum qualifying service period of 10 years and allow him pension on that basis as early as possible preferably within a period of two months from today."

12. In the instant OA, the case of applicant herein is squarely covered by the aforesaid law laid down by the Hon'ble Apex Court (supra) as well as judgments passed by Hon'ble High Court of Patna as referred hereinabove (supra). It is noticed that the applicant was promoted only in the month of July



2001 for the vacancy of year 1999. Had the respondents maintained the time schedule for convening the DPC for consideration of the eligible candidates for the promotion of Group 'D' with regard to vacancy year 1999 as per the Circular/Guideline of the respondents, the applicant could have been promoted in year 1999 itself and could have also rendered more than 10 years of service. However, the respondents failed to convene the DPC for the vacancy of year 1999 as per the schedule fixed by the respondents themselves, no reason whatsoever has been stated by the respondents for non-convening the DPC in time. The respondents had convened the DPC only on 29.06.2001 for vacancy of 1999 after a considerable delay. There is a tremendous lapse on the part of respondents in this regard. The said DPC had recommended the name of the applicant for promotion in Group 'D' subsequent to it, the promotion order was issued only on 05.07.2001. The said action of respondents caused immense life long hardship to the applicant and he is being now deprived of pension.

3. During course of argument, learned counsel for the petitioners relied upon a judgment passed by the Hon'ble Apex Court in Civil Appeal No. 8497 of 2019 (Union of India vs Gandiba Behera) along with other analogous cases.

4. Having heard learned counsel for the petitioners and perusing the materials available on record, we are of the opinion that in the facts and circumstances of the present case, the above judgment is not applicable. That was a case where the Hon'ble Supreme Court was considering the issue whether services rendered by the employees in the postal department in



the capacity of Gramin Dak Sevak (GDS) ought to be computed or not for the purpose of calculation of the qualifying service of their pension after they got selected in regular posts in the said department.

5. We agree with the reasoning assigned by the learned CAT for allowing the original application and not inclined to interfere with the impugned order.

6. We are conscious that notices had been directed to be issued to the sole respondent by order dated 08.07.2021 but his appearance need not be awaited, considering the view taken as above. Accordingly, this writ petition is dismissed.

7. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioners within the stipulated time provided in para 1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Vikash Jain, J)

(Anjani Kumar Sharan, J)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.08.2021
Transmission Date	NA

