

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21751 of 2014

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Rama Shankar Tiwari S/o Parsuram Tiwari R/o village-Tiwaripur, P.O.-
Dahiwar, P.S.- Buxar, District-Buxar.

... .. Petitioner/s

Versus

1. The State Of Bihar through Chief Secretary-cum-Commissioner, Water Resources Department, Bihar, Patna.
2. The Engineer -in-Chief, Water Resources Department, Bihar, Patna.
3. The Chief Engineer, Water Resources Department, Dehri-on-Sone.
4. The Superintending Engineer, Water Resources Department, Sone Nahar Pramandal, Buxar.
5. The Executive Engineer, Water Resources Department, Sone Nahar Pramandal, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Digvijay Kumar Ojha, Adv.
For the Respondent/s : Mr. Roy Shivaji Nath, AAG-3

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
ORAL ORDER

2 12-12-2022

1. Heard the parties.

2. Learned counsel for the petitioner submits that the petitioner was appointed as an LDC, and thereafter, the post of LDC got merged with that UDC. The State laid down guidelines for time bound promotion policy with effect from 01.04.1981 in pursuance of the resolution dated 30th December, 1981. The petitioner submits that he has completed more than ten years as on 01.04.1981. Since he was appointed in 1969, he was thus required to be granted the said benefit. He further submits that on completion of twenty five years of service he was further entitled to second time bound promotion. However, the



respondents have denied petitioner the said benefit on the count that the petitioner did not pass the departmental examination and in terms of the circular issued by the Finance Department dated 25th July, 2003 the petitioner could not be given the benefit of selection scale.

3. Learned counsel for the petitioner invites attention to the judgment passed by the co-ordinate Bench of this Court in case of **Lala Devendra Prasad Vs. the State of Bihar and Others in C.W.J.C. No. 6123 of 1998**, wherein an identical issue was examined by the Court and vide its judgment dated 11.10.1999, which held as under:-

“10. Admittedly, the petitioner was appointed as L.D.C. on 20th January, 1949 and completed 10 years of service in January, 1959. The guidelines laying down time bound promotion policy came into effect from 01.04.1981 in pursuance of Resolution dated 30th December, 1981. The petitioner having completed more than 10 years of service as on 01.04.1981 and having not availed any promotion during his service career become entitled for consideration of his case for 1st time bound promotion to Junior Selection Grade scale of clerk at least with effect from 01.04.1981. On completion of 25 years of service as on 20th January, 1975, he also become entitled for 2nd time bound promotion to Senior Selection Grade scale, on completion of requisite Kalawadhi from



the date of the 1st time bound promotion (01.04.1981).

11. Admittedly, there was no provision made to pass examination for promotion to Selection Grade scale on 01.04.1981 and even the executive order was issued subsequently on 29th April, 1985, on the basis of Rule as in vogue (old Rule 157(J) there was no necessity to pass any such examination for promotion to Selection Grade scale. Thereby, the Respondents cannot reject the claim of petitioner for such promotion to Junior Selection Grade scale with effect from 01.04.1981 and Senior Selection Grade scale, on completion of requisite Kalawadhi (five years) i.e. from 1st April, 1986.

12. Accordingly, I direct the Respondents to consider the case of the petitioner for promotion to Junior Selection Grade scale of the post of Clerk (Assistant) with effect from 01.04.1981 (by way of 1st time Bound promotion) and then to the next higher Senior Selection Grade scale of the post of Clerk (Assistant) with effect from 01.04.1986 and issue appropriate order (Notification), if so required within three months from the date of receipt/ production of a copy of this order.”

4. In the opinion of this Court, the plea of the State that petitioner required to appear in the examination was not provided in the time bound promotion policy, which came into effect from 01.04.1981. It is found that even the executive



order dated 29.04.1985 did not provide any such mandatory requirement of passing of an examination. In the circumstances, the respondents cannot reject the claim of the petitioner for such promotion to Junior Selection Grade scale and Senior Selection Grade scale.

5. Keeping in view the judgment passed by the co-ordinate Bench (supra) this writ petition deserves to be allowed and is accordingly allowed with directions to the respondents to pass suitable orders granting him benefit of time bound promotion scheme brought into force by the State Government with effect from 01.04.1981 and grant benefit to him.

6. It is informed that the petitioner has retired on 31.01.2011. Accordingly, it is directed that the retiral benefit would also be revised. The entire exercise shall be conducted within a period of three months.

7. The Writ petition is allowed accordingly.

(Sanjeev Prakash Sharma, J)

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Item no.26

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