

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3092 of 2018

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Ram Naresh Singh S/o Chandrika Singh Resident of Madhopur, Susta,
Dharmodaya Sthali, Susta, Muzaffarpur Susta, Bihar- 842002

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Water Resources Department, Government of Bihar,
Patna.
3. The Deputy Secretary, Water Resources Department, Government of Bihar,
Patna.
4. The Under Secretary, Water Resources Department, Government of Bihar,
Patna.
5. The Commissioner, Tirhtu Division, Muzaffarpur.
6. The Chief Engineer, Water Resources Department, Muzaffarpur.
7. The Superintending Engineer, Water Drainage Investigation Circle,
Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Roona, Advocate Ms. Manisha Singh, Advocate
For the Respondent/s	:	Mr. Vikash Kumar-SC11 Mr. Akash Chaturvedi, AC to SC-11

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 03-10-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

2. Learned counsel for the petitioner submits that the
present writ petition has been filed to set aside the order under
Memo No.29 dated 17.05.2011 (Annexure-2) by which time
bound promotion granted to the petitioner on 09.01.1989 has
been cancelled after 22 years and as a consequence of
cancellation a sum of Rs.73,667/- has been recovered from the



petitioner. Learned counsel further prayed to restore the time bound promotion granted to the petitioner as back as on 09.08.1989 and payment of all consequential benefits including refund of a sum of Rs.73,667/- with interest @ 10% per annum be made.

3. Learned counsel for the petitioner submits that the petitioner was appointed as Typist on 03.06.1977. He submits that upon satisfactory service, the time bound promotion was granted to the petitioner vide Letter No.2546 dated 09.08.1989 and after grant of time bound promotion petitioner was granted the consequential benefits also. Learned counsel for the petitioner submits that admittedly the petitioner has passed Accounts Examination on 16.01.2010. Learned counsel further submits that vide office order dated 17.05.2011 issued by the respondent-Chief Engineer, the petitioner was given the benefit of Assured Career Progression upon completion of ten years, twenty years and thirty years of his service. Learned counsel further submits that all of a sudden vide office order under Memo No.1463 dated 17.05.2011 the time bound promotion was given to the petitioner as back as on 09.08.1989 was unilaterally cancelled. Prior to cancellation of the benefit which was granted to the petitioner no opportunity of hearing was



provided nor any show-cause was issued. The said decision of the government is taken is complete violation of the principles natural justice.

4. Learned counsel further submits that by the said decision two persons were effected, the petitioner and another similarly situated person Nagendra Nath Thakur who filed CWJC No.15349 of 2012 which was allowed vide order dated 02.12.2014. The order passed by this Hon'ble Court in CWJC No.15349 of 2012 is annexed as Annexure-P/3 of the writ petition.

5. Learned counsel for the State submits that counter affidavit has been filed in which the categorical stand of the State is that the decision of withdrawing the date of benefit of promotion has completely in accordance with law under Rule 157 of the Bihar Board's Miscellaenous Rule, 1958 the said promotion shall be granted only after passing of Accounts Examination, which the petitioner has passed on 16.01.2010. Learned counsel for the State admits that in Annexure-A Government of Bihar Finance Department Resolution No.3 P.R.C.-3/81/F-10770 Patna dated 30.12.1981 has also annexed whose Clause 11(ii) and (vi) are the basic guidelines relating to promotion of the petitioner and decision taken by the State is



completely in accordance with law.

6. Upon the specific query of the Court that whether any opportunity was granted to the petitioner to defend himself or not. Learned counsel for the State submits that from the record it transpires that no opportunity was granted, but the action was taken completely in accordance with law.

7. After hearing the parties and upon the pleadings made by them, it transpires to this Court that Annexure-P/3 i.e., order dated 02.12.2014 passed in CWJC No.15349 of 2012 is a similar case as like of the petitioner.

8. In this view of the matter that there is violation of natural justice in the present case, this writ petition is hereby disposed of directing the petitioner to avail remedy under Section 4(C) of the Bihar State Litigation Policy, 2011 which states as follows:

“4.C. A good number of cases are from the category of similar cases. Each Government Department will aim to consider and settle the claim of the representationist/applicant employee/citizen, if the claim is found covered by any decision of the Court. Many service matters of this nature, can be disposed of at the level of the Department itself without compelling the litigant to come to the Court. In this manner, the Government



Departments would be acting as efficient litigants.”

9. In the light of the above policy, the petitioner is directed to file application under Section 4(C) of the Bihar State Litigation Policy, 2011 before the Principal Secretary, Water Resources Department, Government of Bihar, Patna, within four weeks from the date of this order and Principal Secretary, Water Resources Department, Government of Bihar, is directed to pass a reasoned order within four weeks thereafter considering Annexure-P/3 as well as the guidelines under Section 4(C) of the Bihar State Litigation Policy.

10. With this direction, the writ petition is disposed of.

(Dr. Anshuman, J)

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