
(2004) 09 PAT CK 0034
In the Patna High Court
Case No : C.W.J.C. No. 4955 of 1999

Abdul Gaffar Ansari and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 03-09-2004

Acts Referred:

Citation : (2004) 4 PLJR 808

Hon'ble Judges : S.N. Hussain, J

Bench : Single Bench

Judgement

S.N. Hussain, J.—Heard learned counsel for the parties. The petitioners claim promotion to the cadre of Executive Engineer from the date their juniors were promoted to that cadre on 31.1.1997 and 27.3.1997. From the gradation list (Annexure-1) it is apparent that the gradation of the petitioners in their cadre is 1281, 1260 and 1291 respectively and the persons below them at Nos. 1293 to 1297 of the gradation list have been promoted to the Executive Engineer cadre on 31.1.1997 (Annexure-2).

2. Learned counsel for the petitioners submits that the petitioners were not granted promotion merely on the ground that the vigilance clearance report was not received till then. He further contended that recommendation of the Departmental Promotion Committee was granted on 10.2.1998 and the vigilance clearance report of the petitioner No. 1 was received on 22.6.1998 but it was before the lapse period of six months and hence promotion of petitioner No. 1 should have been considered. He further contended that petitioners No. 2 and 3 were promoted vide order dated 7.8.2001 but their promotions were made prospectively although it should have been made retrospective with effect from the date their juniors were granted promotions.

3. Learned counsel for the respondent-State submits that the delay in the promotion of petitioners No. 2 and 3 was due to the non-receipt of the vigilance report and as soon as the report was received promotion was granted to them. However, he submits that vigilance clearance report of petitioner No. 1 has also

been received and he has also been recommended for promotion. Hence, he submits that the claim of the petitioners have already been considered and decided by the authorities concerned and hence nothing remains for decision in this case. He further submits that technical problems will also be solved by the authorities concerned in due course.

4. After hearing the learned counsel for the parties and after perusing the materials on record, it is admitted fact that vigilance clearance report has been received for all the three petitioners and that persons junior to them have already been promoted with effect from 31.1.1997 and hence there was no occasion for the authorities concerned to punish the petitioners for the delay caused by the authorities themselves in submitting the vigilance clearance report and in making necessary recommendations. In the aforesaid circumstances, I allow this writ petition and direct the respondent-authorities to grant promotion to all the three petitioners to the cadre of Executive Engineer with effect from the date on which their juniors were promoted and also to give all consequential benefits.