
(2013) 03 JH CK 0044
In the Jharkhand High Court
Case No : WP (S) No. 655 of 2003

Braj Kishore Jha

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 08-03-2013

Acts Referred:

Citation : (2013) 3 AJR 114 : (2013) 2 JLJR 397

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Rajesh Kumar, Manindra Kumar Sinha and Ranjeet Singh, for the Appellant; Ramesh Kumar Singh and Rabindra Prasad, for the Respondent

Judgement

S. Chandrashekhar, J.—The petitioner has approached this Court seeking a direction upon the respondents for grant of promotion/notional promotion in the rank of Head Assistant (Pradhan Sahayak) with effect from 1.2.1999 and also for grant of outstanding increment. The petitioner was initially appointed as Correspondent Clerk on 3.1.1968 in the Water Resources Department. The petitioner successfully completed the departmental examination in Accounts and thereafter, he was promoted to the post of Junior Selection Grade-cum-Head Clerk with effect from 15.9.1988 and thereafter, he was granted Senior Selection Grade with effect from 1.3.1995. Ignoring the claim of the petitioner for the post of Head Assistant, the respondents promoted one Uma Shankar Singh who had not even passed the Accounts Examination and one Shiv Raj Rai who was even junior to the petitioner. These persons were promoted with effect from 1.2.1999 and therefore, the petitioner has also raised a claim for being promoted to the post of Head Assistant with effect from 1.2.1999. Although the petitioner submitted representations to the authorities, those representations were not decided and since the petitioner was to superannuate with effect from 31.1.2003, he had to approach this Court seeking the aforesaid directions upon the respondents.

2. A counter-affidavit has been filed in which a plea has been taken that for

promotion to the post of Head Assistant, the seniority of the employee is to be counted from the date of promotion to the post of Head Clerk and since the other persons were senior to the petitioner inasmuch as they were promoted to the post of Head Clerk before the petitioner, therefore they were promoted to the post of Head Assistant ahead of the petitioner.

3. On 30th April, 2009 when the matter was listed for hearing, this Court directed the respondent no. 2 (Secretary, Water Resources Department, Government of Jharkhand) to file a personal affidavit stating the procedure, rules, policies, resolutions for filling up the post of Head Assistant in the Water Resources Department which was prevailing in the year between 1998-2000. Pursuant to direction of this Court, a supplementary affidavit dated 22.5.2009 has been filed by the Secretary, Water Resources Department, Government of Jharkhand. A copy of letter dated 27.5.1998 containing the guidelines for appointment, confirmation, seniority, promotion, transfer etc. has been brought on record. A copy of a list containing the names of eleven persons who were granted promotion to the post of Head Assistant has also been brought on record.

4. The learned counsel for the petitioner has submitted that in the guidelines as contained in letter dated 27.5.1998 it has been clearly mentioned that a provisional seniority list would be prepared on the basis of the date of initial joining of the employee for each category/grade separately. The learned counsel has further submitted that though the petitioner was initially appointed on 3.1.1968 and one Madan Kumar Sinha was appointed on 11.5.1972, however the said Madan Kumar Sinha was granted promotion on the post of Head Clerk with effect from 5.1.1987 whereas the petitioner was granted such promotion on the post of Head Clerk with effect from, 15.9.1988 and in this manner, the persons junior to the petitioner has been granted promotion ahead of the petitioner. The learned counsel for the respondents has reiterated the stand taken in the counter-affidavit and has submitted that as Sri Madan Kumar Sinha was senior to the petitioner as Head Clerk, he was granted promotion to the post of Head Assistant ahead of the petitioner. The learned counsel for the petitioner has confined his argument only with respect to grant of promotion/notional promotion in the rank of Head Assistant.

5. Heard learned counsel for both the sides and perused the documents on record.

6. From the guidelines contained in letter dated 27.5.1998 it appears to me that the seniority list has to be prepared on the basis of the date of initial appointment. It is not appearing from the said guidelines that separate seniority list for each post would be prepared on the basis of the date of joining on the said post. On several occasions, as in the present case promotion is granted from a back date and therefore seniority cannot be counted from the date of joining the post of Head Clerk. In terms of guidelines, the seniority has to be counted from date of initial appointment. It is admitted fact that Sri Madan Kumar Sinha joined the service as Correspondent Clerk on 11.5.1972, that is, after the

petitioner joined the service as Correspondent Clerk. He has been granted promotion to the post of Head Assistant with effect from 1.7.2002 and therefore, I am of the opinion that the petitioner is also entitled for grant of promotion to the post of Head Assistant with effect from 1.7.2002. Since, the petitioner has already superannuated with effect from 30th January, 2003, the petitioner would be entitled for all the monetary benefits between the period 1.7.2002 and 31st January, 2003. The respondents are directed to calculate and pay all such monetary benefits to the petitioner within a period of 8 weeks from the date of communication of this order.

7. The writ petition is disposed of in the aforesaid terms. There shall however, be no order as to costs.