
(2002) 01 PAT CK 0080
In the Patna High Court
Case No : C.W.J.C. No. 1768 of 2000

Captain Kamaleshwara Prasad Sinha	APPELLANT
Vs	
State of Bihar and Others	RESPONDENT

Date of Decision : 21-01-2002

Acts Referred:

Citation : (2002) 1 BLJR 478 : (2002) 1 PLJR 598

Hon'ble Judges : R.N. Prasad, J

Bench : Single Bench

Judgement

R.N. Prasad, J.—The Petitioner has impugned the order dated 11-2-1999 passed by respondent No. 4, Annexure-1 to the writ petition, whereby his claim for grant of time-bound promotion has been denied on the ground that concurrence of the Government for grant of time-bound promotion has not been made as yet.

2. The petitioner was an employee of the respondent-Corporation. He retired on 30-9-1993. After retirement/he filed writ petition bearing C.W.J.C. 575/97 for issuance of direction for payment of retirement dues and also for grant of time-bound promotion. The said writ petition was disposed of on 2-7-1997, Annexure-21, directing the Administrator to determine the entire retirement dues of the petitioner and also to consider his claim with regard to time-bound promotion and dispose of the same by a reasoned order. Pursuant to the said order, the order, Annexure-1, has been passed denying the claim of the petitioner for grant of time-bound promotion. In the writ petition averment has been made that in similar situation, one Shashi Bhushan Sharma had moved this Court in C.W.J.C. No. 11135/92. The said writ petition was allowed vide order dated 8-2-1995 directing the authority concerned to consider the case of the petitioner for grant of time-bound promotion pursuant to the decision, Annexure-7. Pursuant to the order of this Court, aforesaid Shashi Bhushan Sharma was allowed time-bound promotion. One Sheo Prasad Singh was also an employee of the respondent-Corporation. He was also allowed time-bound promotion vide Annexure-19. The controversy with regard to time-bound promotion was

considered in details by the Administrator and by order dated 18-1-1992 it was resolved that employees of the Corporation are entitled to time-bound promotion with effect from 1-4-1981, Annexure-19/1. In these circumstances averment has been made in the writ petition that there is no justification for passing the order, Annexure-1.

3. A counter-affidavit has been filed on behalf of respondent Nos. 3 & 4 in which it has been stated that pursuant to the recommendation of 4th and 5th Pay Revision Commission report pay scale has been revised with effect from 1-1-1971 and 1-4-1981. In principle, the grant of time-bound promotion has been accepted, however, it would be subject to the grant of approval by the State Government to meet 70% of the additional burden to be incurred by way of grant and loan. As yet no approval has been granted for allowing time-bound promotion to the employees of the Corporation by the State Government. Time-bound promotion has been granted to Shashi Bhushan Sharma pursuant to the order of this Court. However, claim of some of the employees have not been allowed by the High Court.

4. A separate counter-affidavit has been filed on behalf of respondent No. 2 wherein it has been stated that the department has issued different letters communicating to the Urban local bodies with respect to the revised pay scale admissible to the officers and employees of the Urban local bodies. The Urban local bodies were made to take decision with respect to grant of time-bound promotion to its employees. The State Government is providing 30% as grant and 40% as loan to the respondent-Corporation to improve financial position and they are free to take decision with respect to grant of time-bound promotion.

5. Learned Counsel for the parties reiterated their stand on the basis of their pleading during the course of argument. However, from the submission/material available on the record it has become admitted position that pay scale of the employees of the Corporation has been revised pursuant to the recommendation of the 4th Pay Revision Commission report. The scheme of time-bound promotion is part of the said report. According to the petitioner, Pay Revision Commission report has been accepted and the time-bound promotion has been granted to some of the employees, whereas according to the learned Counsel for the respondent-corporation in principle grant of time-bound promotion has been accepted by the Corporation subject to the approval of the State Government. However, it appears from the counter-affidavit filed on behalf of respondent No. 2 that the Corporation is free to take decision in this matter and the State Government has nothing to do in the matter. In this regard it would not be out of place to mention herein that the Government has accepted 4th Pay Revision Commission report and allowed time-bound promotion to its employees but the same would not be binding on the Corporation unless it is accepted. Therefore, dispute is as to whether the Corporation has accepted the scheme of time-bound promotion to its employees or not. It is evident from the order, Annexure-19/1, that controversy with respect to grant of time-bound promotion has been

considered by the Administrator and it has been stated that reports of 4th Pay Revision Commission and the 5th Pay Revision Commission have been implemented in the Corporation and as such employees of the Corporation are entitled to time-bound promotion with effect from 1-4-1981. It is true that Shashi Bhushan Sharma had moved this Court and pursuant to the order of this Court, he was allowed time-bound promotion. However, it further appears from Annexure-19 that one Sheo Prasad Singh, Revenue Officer has been granted time-bound promotion. From the said order, it does not appear that time-bound promotion was granted to the aforesaid employee by virtue of the order of this Court. During course of argument, the specific question was put to the learned Counsel for the Corporation to show any document that 4th Pay Revision Commission report has been accepted in part and not in whole or to show that time-bound promotion was not accepted by the Corporation but the learned Counsel could not be able to produce any document to the aforesaid effect rather it is evident from the order, Annexure-19/1 that 4th Pay Revision Commission report and 5th Pay Revision Commission report have been implemented in the Corporation and the employees of the Corporation are entitled to benefit of time-bound promotion with effect from 1-4-1981. Moreover, material has also been placed on the record to show that other employees have been granted time-bound promotion.

6. Thus, in the circumstances, the writ petition is disposed of and the order, Annexure 1, is quashed. The Corporation/Administrator is directed to consider the grievance of the petitioner in the light of observation/direction as indicated above and dispose of the same by a reasoned order in accordance with law within a period of two months from the date of receipt/production of copy of this order.