
(2005) 09 PAT CK 0068
In the Patna High Court
Case No : CWJC No. 7789 of 1993

Chandrama Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 23-09-2005

Acts Referred:

Citation : (2006) 1 PLJR 31

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Man Mohan, Mukeshwar Dayal and Vikas Mohan, for the Appellant; N.K. Prasad for the State and Mr. Rajeev Roy for the Respondent No. 4, for the Respondent

Final Decision : Allowed

Judgement

Narayan Roy, J.—Heard learned counsel for the petitioner, JC to Government Advocate for the State and learned counsel for respondent No. 4. Substantially, this writ application is directed against order dated 18.12.1992, as contained in annexure 1, whereby and whereunder the petitioner has been made junior to respondent Nos. 3 and 4. However, an ancillary prayer has also been made directing the State respondents to consider the case of the petitioner for regular promotion to the post of Assistant Director Agriculture (Plant Protection) and for payment of consequential monetary benefits.

2. It is submitted by Mr. Man Mohan, learned counsel for the petitioner, that in the gradation list of the cadre of Class II services, the petitioner has been shown at serial No. 44, whereas respondent Nos. 3 and 4 have been shown at serial Nos. 45 and 46, respectively. The gradation list, as contained in annexure 12, is dated 10.6.1996 and after giving effect to the gradation list, the authorities, for the reasons best known to them, revised the same, so far the petitioner vis-a-vis respondent No. 4 are concerned by the order impugned, and placed the petitioner below respondent Nos. 3 and 4, who were initially placed below the petitioner in the original gradation list. It is further submitted that no

opportunity, whatsoever, was given to the petitioner before passing of the order, as contained in annexure 1, which, obviously, has affected his right, as the original gradation list has been revised and he has been placed below respondent Nos. 3 and 4.

3. Learned counsel for the State, however, submitted that order, as contained in annexure 1, was issued after completing all the formalities and, this, in no way, affects the right of the petitioner.

4. Though a counter affidavit has been filed on behalf of the respondents, it is not disputed that no notice or opportunity was given to the petitioner before passing of the order impugned.

5. From annexure 12, per se, it appears that the petitioner's position has been shown at serial No. 44, whereas respondent Nos. 3 and 4 have been placed at serial Nos. 45 and 46, respectively, but in the order impugned the petitioner has been placed below respondent Nos. 3 and 4, which, obviously, affects the right of the petitioner and necessarily, therefore, the petitioner was required to be heard before passing of the order impugned. The order impugned, annexure 1, is held to be violative of the principles of Natural Justice.

6. This writ application, in that view of the matter, on this ground alone, succeeds.

7. In the result, this application is allowed and the order impugned, as contained in annexure 1, is set aside.

8. I am informed that the petitioner vis-a-vis respondent Nos. 3 and 4 have already superannuated. However, the respondent authorities are directed to consider the case of the petitioner for his due promotion notion-ally and to grant the consequential monetary benefits in accordance with law.