

(2003) 07 PAT CK 0025
In the Patna High Court
Case No : L.P.A. No. 242 of 1997

Girindra Kishore Prasad and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 14-07-2003

Acts Referred:

Citation : (2003) 3 PLJR 700

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kr. Singh, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The contention of the Appellants is that any issue which they had raised is a class action within their cadre and, in fact the issues had been decided after a decision of the Bihar Administrative Tribunal for its implementation. When a set of persons in similar circumstance had filed a petition the statement was made on behalf of the State of Bihar that the State does not propose to challenge the order of the Bihar Administrative Tribunal. The issue, which was resolved, was that the post of the Assistant Engineer could have been filled up from amongst those Junior Engineers who had completed five years of service and had passed A.M.I.E. Examination.

2. In the circumstance, the court finds that the learned Judge committed an error while presuming that the Petitioners had come late in seeking the relief. Any promotion had, in fact, been granted to the Petitioner but in 1994. In this matter, the promotion had been granted and it was to take effect from a back date but it was (sic) back only partly. In the circumstance of grievance of the Petitioner had arisen in 1994. Thus, the observation that the Petitioner had come after 17 years is an error apparent on the face of the record.

3. Secondly the order acknowledges that persons similar to the Appellants had received reliefs. This aspect is borne out from a judgment of the court noticed in the order which is impugned. This is the decision in the case of Ram Yatan

Sharma and Ors. v. The State of Bihar and Ors. 1994 (1) BLJ 117. A perusal of this decision reveals that the issue had been settled even by a policy of the Government.

4. In the circumstances, there cannot be two sets of Engineers in the same cadre and in similar circumstance, as this would be creating unequals amongst equals. The order on the writ petition is, thus, quashed. The decision in re: Ram Yatan Sharma and Ors. (supra) is reiterated.

5. A direction issues to the State Respondent to give the relief as was granted to similar Junior Engineers as in the case of Ram Yatan Sharma and Ors (supra). This should be done within six weeks of a certified copy being placed before the Secretary, Road Construction Department, Govt, of Bihar and the Engineer-in-Chief-cum-Additional Secretary-cum-Special Secretary, Road Construction Department, Respondent Nos. 1 and 2 respectively in the writ petition.

6. The appeal is allowed through out costs.