
(2003) 09 PAT CK 0145
In the Patna High Court
Case No : C.W.J.C. No. 720 of 2001

Gorelal Singh and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 05-09-2003

Acts Referred:

Citation : (2004) 1 PLJR 256

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Tej Bahadur Singh, for the Appellant; JC to SC I, for the Respondent

Judgement

Narayan Roy, J.—Heard counsel for the parties.

2. By this application, the Petitioners pray for issuance of direction upon the Respondents to consider them for promotion in B.Sc. trained scale against the vacancies available prior to 28.12.1990 and they should be treated at par with Respondents Nos. 4 to 7.

3. According to the case of the Petitioners, they were initially appointed as against I.Sc trained scale in between 3.12.1980 to 5.1.1983, respectively, Subsequently, they passed B.Sc. examination in the years 1988 and 1989, respectively, whereas Respondent Nos. 4 to 7 were appointed against I.Sc. trained scale and they were shown juniors to the Petitioners on the basis of their initial appointment. In the meantime, the authorities promoted Respondent Nos. 4 to 7 as against B.Sc. trained scale with effect from 28.12.1990, but till date the Petitioners have not been considered for their promotion against B.Sc. trained scale even though as per Rules, they are required to be placed above Respondent Nos. 4 to 7 in the gradation list.

4. It is submitted by learned Counsel appearing on behalf of the Petitioners that the Petitioners in this regard made representations before the authorities concerned but till date the same has not been disposed of. It is further submitted that whenever the Petitioners enquired about the matter, they were informed

that the matter was under active consideration, and ultimately, not culminated in passing of the final order. Learned Counsel further submits that the question, which has been raised in this application, has already been set at rest by this Court in case of *Badri Narain Verma v. State of Bihar and Ors.* 1992 (2) B.L.J. 329.

5. A counter affidavit has been filed on behalf of the Respondents substantially stating therein that since the Petitioners have passed the B.Sc. examination subsequent to Respondent Nos. 4 to 7, they are not entitled to get their promotion at par with Respondent Nos. 4 to 7.

6. However, it is not stated in the counter affidavit as to whether the representations filed by the Petitioners have been disposed of. In the case of *Badri Narain Verma (supra)* this Court held that the seniority stands restored when higher qualification is acquired. It further held that as soon as the Petitioners of that case acquired higher qualification their seniority stood restored and, accordingly, necessary direction was given to the authorities to fix the seniority of the Petitioners of that case.

7. In the given facts and circumstances of the case, in my opinion, it would be appropriate for this Court to direct the authorities to take decision upon the representations filed by the Petitioners.

8. For the reasons aforementioned, therefore, Respondent No. 2 is directed to dispose of the representations filed by the Petitioners by speaking order in the light of the judgment rendered by this Court in the case of *Badri Narain Verma (supra)* within a period of three months from the date of receipt/production of a copy of this order.

9. With the direction/observation aforesaid, this application is, accordingly, disposed of.