
(2007) 07 JH CK 0065
In the Jharkhand High Court

Hrishikesh Sinha

APPELLANT

Vs

The State of Bihar (now Jharkhand) and Others

RESPONDENT

Date of Decision : 27-07-2007

Acts Referred:

Citation : (2009) 1 JCR 472

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—The prayer of the petitioner in this writ application is for direction to the respondents to grant him the benefit of second time bound promotion, which, according to him is due w.e.f. 03/03/1985.

2. The case of the petitioner, as stated in the writ petition, is that he was a Junior Accounts Clerk in the circle cadre on and from 03/03/1960 and he was made permanent w.e.f. 01/03/1972 against a permanent post in Irrigation mechanical Division, Ranchi. He was further promoted to the post of Senior Accounts Clerk by issue of order of the Superintending Engineer dated 26/09/1978 w.e.f. 01/04/1971. In the year 1979 circle cadre was superceded and it merged with Chief Engineer cadre vide issue of letter No. 1979 dated 04/04/1979 issued by the Irrigation Department, Government of Bihar, for all purposes of seniority/promotion cadre. Accordingly, the petitioner became the incumbent of Chief Engineer cadre of Chief Engineer (Mechanical), Irrigation Department. In the year 1980 the post of Junior Accounts Clerks and Senior Accounts Clerks were amalgamated and they were known as Accounts Clerk only. In the year 1981 4th pay revision report came into force w.e.f. 01/01/1981, which created Junior and Senior Selection Grade in all cadres in the ratio of 10% and 20% of existing strength, besides the prevailing provision for time bound promotion, i.e. first time bound promotion to be given after completion of 10 years of service and second time bound promotion to be given after completion of 25 years of service.

On 18/05/1985 a meeting of Establishment Committee of Chief Engineer (Mechanical) was held and it was decided to give promotion to Accounts Clerks in Junior and Senior Selection Grade and issued a letter contained in memo No. 567 dated 27/05/1985, the name of the petitioner was shown at Sl. No. 2 in the Junior Selection Grade found fit for promotion.

3. The grievance of the petitioner is that in spite of the said decision of the Establishment Committee on 18/05/1985 though it was decided to give regular promotion to the petitioner and others but in fact the order giving promotion to the petitioner was not issued. It is said that on one hand the Chief Engineer (Mechanical) did not promote the petitioner to Accounts Clerk in regular Junior Selection Grade but it promoted correspondence clerks and gave them Junior Selection Grade on seniority basis, which was discriminatory. When the petitioner represented his case then the petitioner was given first time bound promotion in place of regular promotion to Junior Selection Grade by issue of letter dated 12/02/1993 contained in Annexure-5 to the writ application w.e.f. 01/04/1981. The petitioner says that he became entitled to get the second time bound promotion from 03/03/1985, on completion of 25 years of service. It is said that when the juniors to the petitioner were given the benefit of second time bound promotion and the petitioner was being denied then he represented the matter for his second time bound promotion by filing representation but to no effect. During the pendency of the writ petition the petitioner superannuated from the service on 29/02/1999.

4. A counter affidavit has been filed on behalf of the respondents duly sworn in by the Executive Engineer respondent No. 6, wherein it has been stated that the petitioner was initially appointed as typist clerk w.e.f 03/03/1960 in the pay scale of 50-2-70-E.B. 2-90 thereafter, his cadre was changed from correspondence clerk to Junior Accounts Clerk vide issue of letter No. 1544 dated 13/08/1966 w.e.f. 01/07/1966 in the same pay scale. Vide letter No. 951 dated 03/05/1972 of the Chief Engineer, Irrigation, he was transferred to the cadre of Accounts Clerks cadre w.e.f. his initial date of joining, i.e. 03/03/1960 and, thereafter he was promoted in the cadre post as Senior Accounts Clerk w.e.f. 01/04/1971 by issue of letter No. 1327 dated 26/09/1978 in the pay scale of 260-408, which was revised in the pay scale of Rs. 730-1080 w.e.f. 01/04/1981. It is further stated that the Chief Engineer (Mechanical), Water Resources Department, Patna Establishment Committee thoroughly examined the matter and found that the petitioner had already got regular promotion on the post of Senior Accounts Clerk w.e.f. 01/04/1971 and he was again given first time bound promotion w.e.f. 1981, which was against the Rules framed by the Government of Bihar, Department of Finance as contained in letter No. 10770 dated 30/12/1981, which envisages that a Government Servant will get two time bound promotions after completion of 10 years and 25 years of service if he has not been given any regular promotion within that period but since the petitioner was already given regular promotion within that period on the post of Senior Accounts Clerk w.e.f. 01/04/1971, hence, he was only entitled to get second time bound promotion

after completion of 25 years of service, i.e. w.e.f. 03/03/1985 and, hence, the benefit of first time bound promotion given to the petitioner w.e.f. 01/04/1971 was wrong and, therefore, the same was ultimately cancelled.

5. By filing a rejoinder to the counter affidavit the petitioner has reiterated his stands taken in the writ petition but has also stated that if there is any problem in giving him the benefit of second time bound promotion than his case may be considered for giving him the benefit of his decided promotion on Junior Selection Grade w.e.f. 01/04/1981, benefit of which was given to many other juniors to the petitioner.

6. The petitioner has not denied that he was given regular promotion on the post of Senior Accounts Clerk w.e.f. 01/04/1971. It is also not in dispute that the time bound promotion has to be given to the Government Servant only when he does not get any regular promotion within a period of 10 years or 25 years as the case may be. It is also not in dispute that though the petitioner was given regular promotion on Senior Accounts Clerk w.e.f. 01/04/1971 but in spite of that he was also given the first time bound promotion w.e.f. 01/04/1981. This, in my view, was not as per the orders and circular issued by the State Government. Therefore, the same was rightly cancelled subsequently by the competent authority. Thereafter, before the second time bound promotion could be given to the petitioner, he superannuated from the service.

7. In this situation, I find that the claim of the petitioner for giving him second time bound promotion or for restoration of his first time bound promotion is not entertainable. No such relief as claimed by the petitioner can be given to the petitioner in this writ application. Consequently, this writ application is dismissed.

In the facts and circumstances of the case there shall be no order as to cost.