

(2007) 01 PAT CK 0128
In the Patna High Court

Isidor Lakra and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 19-01-2007

Acts Referred:

Citation : (2007) 01 PAT CK 0128

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Aftab Alam, J.—Heard Mr. D.K. Sinha, Senior Advocate appearing for the petitioners.

2. According to the petitioners, though they were promoted as Armourer Havildar prior to Lalan Prasad Singh, Ramdeni Singh and some others, they were shown below them in the gradation list, dated 16.10.2001 (Annexure 2) and on objections raised by the petitioners, the date of promotion granted to those people was shifted back and they too were promoted as Armourer Havildars from the same date as the petitioners. This writ petition is filed challenging the gradation list, dated 16.10.2001 (Annexure 2) and the order dated 15.11.2002 by which the DIG of Police (Prison) shifting back the promotion granted to the other people as Armourer Havildar from the date the petitioners were promoted.

3. Curiously enough, the writ petition was filed without impleading as parties any of those over whom the petitioners claimed seniority. During the pendency of the case, one person, namely, Akhilesh Kumar Vatsa filed an intervention petition that was allowed by order, dated 23.04.2004 and he was directed to be added as intervenor-respondent. The others whose name are cited in the writ petition e.g. Lalan Prasad Singh, Ramdeni Singh and Ors. are not before this Court. On that technical ground itself, the writ petition was liable to be dismissed. But from the materials on record, it appears that the petitioners grievance is otherwise also without any substance or merits.

4. In the counter affidavit filed on behalf of the respondent authorities, it is stated that 49 posts of Armourer Havildar was created/sanctioned vide letter No. 7312, dated 8.8.91 issued under the hand of Joint Secretary, Home (Police) Department. Five posts of Armourer Havildars were vacant from before. Thus, the total vacancy in the posts of Armourer Havildar on 25.10.1991 was 54. It is further stated that on 25.10.1991, 29 Armourer Constables, including the petitioners, were given promotion as Armourer Havildars. The case of 25 others was not placed before the Selection Committee due to some administrative reasons. It was, however, found that apart from the 29 Armourer Constables including the petitioners, there were others who were senior on the basis of their dates of appointment and who had also passed the requisite eligibility test before the petitioners. They too were accordingly given the promotion on 10.12.1991. Later, a tentative gradation list was issued on 29.09.2000. In the tentative gradation list, petitioners were shown above those who were promoted on 10.12.1991. On objections raised by them, the matter was investigated and it was found that their due seniority was adversely affected because they were not given promotion as Armourer Havildars due to lapses in the department and not due to any fault on their part. In order to restore their seniority over the petitioners as Armourer Constables, in the final gradation list they were put above the petitioners and their date of promotion was also shifted back to the date on which the petitioners were promoted. It was thus a simple case of rectification of an error made due to departmental lapses.

5. Mr. D. K. Sinha was unable to deny that those over whom the petitioners claimed seniority were actually senior to the petitioners as Armourer Constables. He was also unable to deny that they too had passed the requisite tests and were thus eligible for promotion as Armourer Havildar on 25.10.1991.

6. In the aforesaid facts and circumstances, it is plainly a case of correction of a mistake. The petitioners are therefore, not entitled to any relief. This writ petition is dismissed.