(2005) 11 PAT CK 0011

In the Patna High Court

Case No : CWJC No. 4628 of 1990

Jagdish Das APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 14-11-2005

Acts Referred:

Citation : (2006) 1 PLJR 437

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : S.K. Verma, Jitendra Kishore Verma and Rajnandan Pd. Singh, for the Appellant; J.P. Karn for Respondents 2 and 3 and Mr. Suresh Kumar, for the Respondent

Judgement

Narayan Roy, J.—Heard counsel for the parties. The writ petitioner had prayed for issuance of a direction upon the respondents to pay them the due salary in the prescribed pay scale of Assistant Tax Daroga and Tax Collector, respectively.

2. It is submitted by learned counsel for the petitioners that by virtue of the order, as contained in annexure 3 dated 14.1.1987 the petitioners and several other persons were considered for promotion and, accordingly, they were promoted. Petitioner No. 1 was promoted to the post of Assistant Tax Daroga, whereas petitioner No. 2 was promoted on the post of Tax Collector, but till date they have not been paid the scale of promotional post, though works are being taken from them. It is further submitted that other persons, who were promoted vide annexure 3, are being given the promotional scale, which would be evident from annexure 6, but the same is being denied to the petitioners for the reasons best known to the authorities.

3. Learned counsel for the respondents, on the other hand, submitted that it would be manifest from annexure 3 itself that promotion of petitioner No. 1 and other persons was granted subject to final approval of the State Government and since promotion so granted to petitioner No. 2 from the post of peon to Tax Collector was not permissible in law and on those counts, promotional benefits

are not given to the petitioners.

4. Learned counsel for the petitioners, however, has drawn my attention to annexures 4 and 6 showing that at a subsequent stage even peons or daily wage workers were also promoted to the posts of Tax Collector like petitioner No. 2, and, therefore, it would not be justifiable for the respondents to say that there was no line of promotion to the peons. No averment, whatsoever, has been made in the counter affidavit denying these facts.

5. From annexure 6, it appears that some of the persons, who were appointed with the petitioners, since were not given the mandatory benefits of the promotional posts, they approached the Administrator, Bhagalpur Municipal Corporation, and the Administrator vide order dated 8.11.1990 directed for payment of promotional benefits to them.

6. At this stage, however, it is not known to the Court as to whether the persons shown in annexure 4 were promoted from the posts of peon and daily wage workers, and are getting salary like petitioner No. 2 or not. At the same time, it is not known to the Court, the post, on which petitioner No. 2 was promoted, was duly approved by the State Government.

7. In the given facts and circumstances of the case, therefore, in my opinion, the petitioners should represent the matter before the Administrator concerned. The Administrator while considering the representation filed by the petitioners shall examine the facts as to whether similarly situated persons, who were promoted vide orders as contained in annexures 3 and 4, are being paid the salary for the promotional posts and in case, he would be satisfied that other persons are getting the promotional benefits, he will consider the case of the petitioners for necessary directions to pay them the benefits of the promotional posts in the like manner as permissible to other persons, as referred to above. The representation so filed by the petitioners shall be disposed of within a period of four weeks from the date of its filing by a reasoned order in accordance with law. With the direction/observation aforesaid, this application is disposed of.