

(2004) 01 PAT CK 0096
In the Patna High Court
Case No : C.W.J.C. No. 10076 of 1998

Jiwan Krishna Tiwari and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 14-01-2004

Acts Referred:

Bihar Service Rules, 1952 — Rule 58

Citation : (2004) 1 PLJR 552

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Siya Ram Shah, for the Appellant; JC to AAG II., for the Respondent

Judgement

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

2. The grievance of the Petitioner that though they were promoted to the posts of Registrar and also on the posts of Under Secretary, the monetary benefits have not been given to them.

3. According to the case of the Petitioners, they were firstly promoted to the posts of Registrar in the Secretariat vide notifications, as contained in Annexures 2 and 4, respectively, with retrospective effect, with effect from 5.10.1989 and thereafter they were also promoted nationally on the posts of Under Secretary in the Secretariat, but the monetary benefits have not been paid to them.

4. The question, which has fallen for consideration in this case, is as to whether the benefit of notional promotion can be granted to the Petitioners only after assumptions of the charge of the posts or from the date of promotion, as notified and the Petitioners should be entitled for consequential monetary benefits on account of notional promotion granted to them.

5. It is submitted at the bar that this question is no more res integra and it has been set at rest and in the case of Md. Izharul Haque Vs. The State of Bihar and Others, . It is also stated at the bar that the case of the Petitioners is similar to

the that of Md. Hafiz (supra).

6. The facts as alleged in this writ application are not disputed by the Respondent State in the counter affidavit. However, it is stated that since the Petitioners had not assumed charge of the office of the Under Secretary, they would not be entitled for monetary benefit in view of Rule 58 of the Bihar Service Code. In the case of Md. Hafiz (supra) this Court has decided the question raised in the instant application and the case of the Petitioner, therefore, is squarely covered by the ratio laid down by this Court in the case of Md. Hafiz (supra).

7. This application, in that view of the matter, is disposed of in terms of the order in the of Md. Hafiz (supra) and it is held that the Petitioners would not be entitled to get the monetary benefits on account of the notional promotion granted to them with effect from the date of the notifications, issued in their case, and, in that view of the matter, the State authorities are directed to pay the State authorities are directed to pay the consequential monetary benefits on account of the promotion given to the Petitioners, as referred to above, within a period of three months form the date of receipt/production of a copy of this order.

8. This disposes the writ application.