
(2009) 03 PAT CK 0081
In the Patna High Court
Case No : CWJC No. 11665 of 2002

Lallan Prasad Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 05-03-2009

Acts Referred:

Citation : (2009) 4 PLJR 556

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Judgement

Navin Sinha, J.—Heard learned counsel for the petitioner and the State. The petitioner was made an accused in a case registered by the Department of Vigilance, Patna, as Nigrani P.S. Case No. 25 of 1987 (Special Case No. 19 of 1987) while he was posted as an Assistant Engineer at Ghorasahan Canal Division, Raxaul on allegations of difference in measurement with regard to certain works between that found on the spot and the measurements entered in the measurement book. The Court is informed that this vigilance case is still pending.

2. A departmental proceeding on the same charges was also initiated against the petitioner. Final orders of punishment came to be passed on 6.8.1999. The punishment was:-

(A) Censure to be entered in his character roll for the year 1986-87;

(B) Stoppage of two increments with non-cumulative effect; and

(C) Nothing beyond subsistence allowance was payable for the period of suspension, which would be counted as a period of service for other purpose.

3. Learned counsel for the petitioner submits that the order of punishment affecting consideration of his case for promotion lost its effect after three years in August, 2002. The petitioner then becomes eligible to be considered for promotion to the post of Executive Engineer.

4. On the issue of pendency of criminal case against him, he relies on an order of this Court in CWJC No. 9099 of 2002.

5. A Bench of this Court in that writ application took notice of a Government resolution dated 11.9.2002 providing that where a disciplinary proceedings/ criminal case remains pending for more than two. years, the case of the Government servant is required to be considered for adhoc promotion on consideration of the entire records and the pendency of the case shall not come in the way of the ad hoc promotion.

6. Coming to the facts of this case, the effect of the punishment in the departmental proceeding debarring him from consideration for promotion for specific period has expired. The pendency of the criminal case stands covered by the resolution dated 11.9.2002.

7. This Court, therefore, holds that the petitioner is entitled to be considered for ad hoc promotion to the post of Executive Engineer and to other service benefits inclusive of any benefit of A.C.P., if he is otherwise eligible in accordance with law within a period of four months from the date of receipt and/or production of a copy of this order. This writ application stands disposed.