

**(2005) 03 PAT CK 0041**  
**In the Patna High Court**  
**Case No : CWJC No. 2520 of 2000**

Laxmikant Singh and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

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**Date of Decision :** 03-03-2005

**Acts Referred:**

**Citation :** (2005) 2 PLJR 359

**Hon'ble Judges :** Narayan Roy, J

**Bench :** Single Bench

**Advocate :** Bindyachal Singh, for the Appellant;

**Final Decision :** Allowed

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## Judgement

Narayan Roy, J.—Heard counsel for the parties. The grievance of the writ petitioners is that though they have been promoted vide order, as contained in annexure 3, with effect from the due date, as indicated therein, they are not being paid the consequential monetary benefits from the due date.

2. It is submitted by Learned Counsel for the petitioners that the petitioners and several others were promoted by the notification, as contained in annexure 3 dated 28.10.1998 on the post of Secretary to the Secretary of the Department with effect from due date, as referred to in column 3 of the notification, but in the same notification, it is stated that the actual monetary benefit will accrue to the beneficiaries with effect from the date of their joining. Learned Counsel for the petitioners further submitted that since the petitioners were promoted with retrospective date, they would be entitled to monetary benefit from the date of their promotions. It appears from annexure 3 that monetary benefit, of retrospective promotion given to the petitioners and others, has been denied.

3. Learned Counsel for the State submitted that in view of Rule 58 of the Bihar Service Code the petitioners would be entitled to get the consequential monetary benefits with effect from the date of their joining.

4. The question, which has arisen for consideration in this case, is no more *res integra* and it has been settled by several judgments of the Apex Court and this Court.

5. It is not in dispute that the petitioners and others were promoted vide notification, as contained in annexure 3, with effect from the dates mentioned in column 3 of the notification. No sooner the petitioners were promoted they would be entitled for consequential monetary benefits from the date of their promotion and merely because they did not assume the charge on the date of promotion they cannot be debarred from the monetary benefits.

6. It appears that the State Government has recognised their claims for promotion with effect from the due date and now the State cannot take stand that the petitioner did not discharge the duties of the post and, thus, they would not be entitled for monetary benefits.

7. In this connection, reference may be made to the decision of the Apex Court in the case of *Alappat Narana Menon vs. State of Kerala* [1977(2) S.L.R. 656] and a decision by a Bench of this Court in the case of *Dr. Paras Nath Prasad vs. State of Bihar and others* [1990(2) Pat LJR 248] and this question has also been decided by this Court in the case of *Md. Izharul Haque Vs. The State of Bihar and Others*, .

8. Having regard to the facts and circumstances of the case and in view of the legal propositions, as referred to above, I will have no doubt in my mind to hold that the due date of promotion having been fixed by the State, the petitioners would be entitled to the consequential monetary benefits from that date and they cannot be deprived of the benefits because of the Rules or Circulars of the State Government. For the reasons aforementioned, therefore, this application is allowed and the respondent authorities are directed to grant consequential benefits of promotional scale to the petitioners with effect from the date they were promoted, preferably within a period of three months from the date of receipt/production of a copy of this order.