

(2008) 08 JH CK 0018
In the Jharkhand High Court

Mahendra Prasad Singh

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 05-08-2008

Acts Referred:

Citation : (2008) 08 JH CK 0018

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Petitioner in this writ application has prayed for a direction to the respondents to promote him to the post of Professor under the scheme of 25 years time bound promotion scheme as contained in letter No. 379 dated 16.2.1990 of the Department of Science and Technology, Government of Bihar, Patna and Statute for promotion to the post of Professor, contained in letter No. BSU-27/85 G.S.(I) 4032 dated 24.12.1986 with effect from 19.1.1992. A further prayer has been made for quashing the order dated 17.7.2003 vide Memo No. 922 (Annexure-5) passed by the Secretary, Department of Science and Technology, Government of Jharkhand (respondent No. 2), by which the representation filed on behalf of the teacher's representative for statutory promotion to the post of Professor, submitted in the light of the order of the Hon'ble High Court of Jharkhand in W.P.(S) No. 421 of 2003 dated 25.3.2003, has been rejected. Prayer has also been made for a direction to the respondents to pay the petitioner the difference of salary with arrears after due statutory promotion in the rank, post and cadre of Professor is given to him from the respective dates.

2. Counsel for the petitioner submits that under the scheme of time bound promotion, the petitioner is entitled to his promotion after having completed 25 years of his service and on such promotion being given to him, he would have availed the benefit of posting as Professor with corresponding scale of pay. Earlier, when the prayer for statutory promotion was denied, the Association of teachers representing the petitioner and other teachers similarly situated, had

filed a writ application before this Court vide W.P.(S) 421 of 2003, in which by order dated 25.3.2003 a direction was given to the respondents to consider the representation made on behalf of the teacher's Association and to pass appropriate orders. In compliance with the order, the petitioner's Association had filed representation before the concerned authorities namely, respondent No. 2, but by the impugned order, the respondent No. 2 has rejected the petitioner's prayer for his statutory promotion.

3. Referring to the impugned order, learned Counsel explains that rejection of the petitioner's prayer was on a misconceived notion that the petitioner has approached for his personal promotion, although the petitioner has prayed for statutory promotion under the time bound promotion scheme. Referring to the judgment of this court passed in W.P.(S) No. 622 of 2003 and W.P.(S) No. 4729 of 2003, learned Counsel explains that under identical circumstances, the representation of the petitioner of the aforesaid writ application was rejected only on the ground that he had approached for his personal promotion for which he is not eligible. Against the order of rejection, the petitioner in the aforesaid writ application had filed the aforesaid writ petitions and by order dated 10.4.2008, this court while setting aside the impugned order of the concerned respondents, had given the petitioners therein a liberty to file a fresh and composite representation in respect of their claim for time bound promotion before the Secretary, Department of Science and Technology, Government of Jharkhand and with a further direction that in the event claims of the petitioners are found tenable, he shall pass appropriate orders with consequential benefits in accordance with law.

4. Learned Counsel explains that since the respondents are the same in the present case also, the respondents may be given a firm direction to consider the prayer of the petitioner for his statutory time bound promotion.

5. No counter-affidavit has been filed, although Counsel for the State is present.

6. In the circumstances, the impugned order as contained in Annexure-5, is hereby set aside. The petitioner is given liberty to file a fresh and composite representation in respect of his claim for time bound promotion before the Secretary, Department of Science and Technology, Government of Jharkhand (Respondent No. 2), who shall consider the representation of the petitioner and dispose of the same in accordance with the statutory provisions and in the event the prayer of the petitioner is allowed, the respondent No. 2 shall also pass appropriate orders enabling consequential benefits to the petitioner. This exercise must be completed within six weeks from the date of receipt of representation from the petitioner.

7. With these observations, this writ application is disposed of.