
(2004) 01 PAT CK 0104
In the Patna High Court
Case No : C.W.J.C. No. 9996 of 1998

Murlidhar Singh

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 12-01-2004

Acts Referred:

Citation : (2004) 1 PLJR 534

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : M. Chatterjee, for the Appellant; JC to AAG I, for the Respondent

Final Decision : Allowed

Judgement

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

2. This writ application is directed against order dated 9.7.1998, as contained in Annexure 3, whereby and where under the authorities have declined to give senior selection grade scale to the Petitioner.

3. According to the case of the Petitioner, the Petitioner was granted promotion in junior selection grade with effect from 1.3.1988, which, subsequently, was cancelled in the year 1995 and consequently thereof, the Petitioner came to this Court in C.W.J.C. No. 7364 of 1996. The order of cancellation of senior selection, grade, however, was quashed by this Court vide order, as contained in Annexure 4 dated 31.3.1998 and the matter was rented back to the authority concerned to consider the case of the Petitioner afresh in the light of the observation made therein and pursuant to the direction of this Court as contained in Annexure 4, the case the Petitioner was considered by the authorities giving rise to the order impugned It is submitted by learned Counsel for the Petitioner that though the Petitioner had received six major punishments and two minor punishments, the same lost its force after efflux of time by virtue of Rule 726(3) of the Bihar Police Manual, and, therefore, the authorities were required to consider the case of the Petitioner afresh for grant of senior selection grade, but in the instant case, the

authorities have again erred in holding that in view of the punishment imposed upon the Petitioner and in view of Police Order No. 99, the Petitioner cannot be granted senior selection grade at the face of the punishment order.

4. A counter affidavit has been filed, where the facts alleged are not disputed. However, it is stated by learned Counsel for the State that in view of Police Order No. 99, senior selection grade scale cannot be granted to the Petitioner. From the materials on record, it appears that the last major punishment imposed upon the Petitioner is of the year 1980. The authorities, however, considered the case of the Petitioner for senior selection grade after lapse of a period of three years, as required under Rule 726(3) of the Bihar Police Manual and senior selection grade Scale was given to the Petitioner.

5. The question now arises as to whether the Petitioner can be debarred promotion to senior selection grade in view of Police Order No. 99.

6. Rule 726(3) of the Bihar Police Manual specifically states that infliction of any major punishment in any rank within the last three years may ordinarily be a bar to admission in any of the promotion lists.

7. Admittedly, from the facts placed on the record, it appears that the last punishment inflicted upon the Petitioner is the year 1980 and after more than a period of three years he was considered and senior selection grade scale was given to him. The promotion so granted to the Petitioner, in that view of the matter, could not have been cancelled in view of Police Order No. 99 as the executive instruction issued by the Police Department cannot override the provisions of the Police Manual.

8. This Court examined this question and remanded the matter to the authority concerned, as referred to above, but the authorities concerned instead of applying its mind afresh in light of the order of this Court reiterated the same stand and rejected the claim of the Petitioner only on the ground that he would not be entitled to get promotion in view of Police Order No. 99.

9. The approach of the Respondent authorities, in that view of the matter, must be held to be wholly erroneous and wholly without jurisdiction.

10. For the reasons aforementioned, this application is allowed, the order, as contained in Annexure 3, is set aside, and the matter is remitted back to the authority concerned to consider the case of the Petitioner for promotion to senior selection grade in accordance with law. This exercise, however, must be completed within a period of three months from the date of receipt/production of a copy of this order.

11. No order as to costs.