

(2005) 08 PAT CK 0002
In the Patna High Court
Case No : CWJC No. 2602 of 2002

Nand Kishore Prasad

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 18-08-2005

Acts Referred:

Citation : (2005) 4 PLJR 127

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Ram Nandan Prasad Sinha, for the Appellant;

Final Decision : Allowed

Judgement

Narayan Roy, J.—Heard counsel for the parties. The petitioner is aggrieved by the order, as contained in annexure 1 dated 10.2.2002, whereby and whereunder second time bound promotion granted to him has been cancelled and pay fixation has been done.

2. It is submitted by learned counsel for the petitioner that by virtue of order, as contained in annexure 3 dated 22.8.1991, he was granted second time bound promotion alongwith other eligible persons.

3. The petitioner availed the benefit of second time bound promotion and thereafter he superannuated with effect from 30.6.2000. But, all of a sudden, the authorities came forward with an order, as contained in annexure 1 dated 10.2.2002, whereby and whereunder second time bound promotion granted to him was cancelled. It is further submitted that no reason, whatsoever, has been assigned in the order impugned nor any opportunity of being heard was given to him before passing of the order impugned.

4. Though a counter affidavit has been filed on behalf of the respondents. It is nowhere stated that any opportunity of hearing or show-cause notice was given to the petitioner before cancellation of his second time bound promotion.

However, certain reasons have been assigned in the counter affidavit for cancellation of second time bound promotion.

5. From the order impugned, as contained in annexure 1, it is not discernible as to on what grounds second time bound promotion granted to the petitioner was cancelled nor it is discernible as to whether any notice was to him before passing of the order impugned.

6. For cancellation of time bound promotion reasons could have been indicated in the order itself, and, in my view, it cannot be supplemented by making statement of the counter affidavit and the petitioner was entitled to know the reason from the order itself. Secondly, the order impugned, as contained in annexure 1, appears to be in violation of the principles of Natural Justice, inasmuch as no opportunity of being heard was given to the petitioner to put forth his defence.

7. Considering the facts and circumstances of the case, therefore, the order impugned, as contained in annexure 1, is not sustainable in law. In the result, this application is allowed and the order impugned, as contained in annexure 1, and its consequential order are hereby set aside. However, the authorities may proceed in the matter in accordance with law, if so advised.