

(2004) 07 PAT CK 0071
In the Patna High Court
Case No : C.W.J.C. No. 3546 of 1999

Ozair Ahmmad and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 22-07-2004

Acts Referred:

Citation : (2004) 3 BLJR 2369 : (2004) 4 PLJR 34

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Y.V. Giri, for the Appellant; J.C. to GP IV, for the Respondent

Final Decision : Allowed

Judgement

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

2. This writ application is directed against the orders as contained in Annexures 2 and 2/A whereby and whereunder the petitioners have been reverted from promotional post to their substantive pQst as Class IV employees.

3. Precisely, it is submitted by learned counsel for the petitioners that the petitioners initially were appointed on Class IV posts under the respondents and by virtue of the order as contained in Annexure 1 dated 30th June, 1992 they along with others were promoted to Class III posts as per the decision taken by Divisional Establishment Committee and thereafter the petitioners continued on the promotional post and in the meantime all of a sudden, the orders impugned were issued reverting back the petitioners to their substantive posts without giving them any opportunity of hearing. Learned counsel further submits that no reason whatsoever has been assigned in the orders impugned for reversion of the petitioners.

4. A counter affidavit has been filed on behalf of the respondent State wherein it is only stated that the Regional Director had no jurisdiction to promote the petitioners in view of the letter No. 637 dated 28.10.1991 and latter No. 262

dated 21.2.1992 issued by the Secretary. Animal Husbandry Department, Government of Bihar, Patna. However, in the counter affidavit no where it is stated as to whether the principles of natural justice were followed by the authorities before issuance of orders of reversion. From the orders impugned, ex-facie, it appears that no reason whatsoever has been disclosed for reversion of the petitioners nor it is discernible that any opportunity of hearing was given to the petitioner before passing of the same.

5. Since the petitioners were promoted and they continued on the promotional post for about six years, the principles of natural justice were required to be followed by giving an opportunity to the petitioners to file their explanation. Admittedly, no show cause notice was given to them and on this ground alone, the orders impugned are liable to be set aside.

6. For the reasons aforementioned this application is allowed. Orders impugned as contained in Annexures 2 and 2/A are set aside and the petitioners are directed to be reinstated on their promotional posts forthwith.

7. No costs.