(2007) 07 PAT CK 0082

In the Patna High Court

Case No : CWJC No. 11820 of 2000

Paras Nath Mishra APPELLANT

Vs

State of Bihar and Others RESPONDENT

Date of Decision : 05-07-2007

Acts Referred:

Citation : (2007) 4 PLJR 265

Hon'ble Judges : Mridula Mishra, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mridula Mishra, J.—Petitioner has superannuated from the post of Accountant on 31.1.2002. This application has been filed by the petitioner for directing the respondents to grant him second time bound promotion in the pay scale of Rs. 1640-2900/- with effect from 25.5.1987 which was due to him as per the policy decision of the State Government on completion of 25 years of service. Further prayer of the petitioner is for providing him all consequential benefits including monetary benefits with effect from 25.5.1987.

2. The petitioner was appointed as Junior Accounts Clerk on 25.5.1962, by the Superintending Engineer, Water Works Circle, Ranchi. He was confirmed against the said post on 1.3.1970. He was promoted to the post of Senior Accounts Clerk by order dated 8.12.1972 and he gave his joining on this post on 12.12.1972. The post of Junior and Senior Accounts Clerk merged as per policy decision of the State Government with effect from 1.5.1980. The State Government framed a policy for giving first and second lime bound promotion to the Government employees on completion of ten years and 25 years of their service by Resolution No. 10770 dated 30.12.1981. In case no promotion is given to an employees during entire service career, in order to remove stagnation, provision was made for giving time bound promotion with effect from 1.4.1981. This resolution was taken on the basis of recommendation of the fourth pay revision committee. Initially under the policy decision time bound promotion had no application in

cases of such employees who after joining Government service have been elevated to higher pay scale by promotion, merger. This restriction was subsequently removed by resolution of the Finance Department dated 30.12.1981. This resolution provided that though the scheme of time bound promotion will come into effect from 1.4.1981 and the pay fixation would be made from 1.4.1981, but payment will be made from 1.4.1985. Subsequently by another resolution of the Finance Department dated 4.8.1987 this restriction was also removed and the actual benefits accruing out of time bound promotion was made effective with effect from 1.4.1981 itself.

3. Petitioner''s case is that his promotion on the post of Senior Accounts Clerk in no way be counted as first time bound promotion. Considering the resolution of the Government. The petitioner is entitled for time bound promotion in pursuance of the resolution dated 30.12.1981. The petitioner completed his 25 years of continuous service on 25.5.1987 and during this period he has been given one promotion to the post of Accountant with effect from 28.1.1980 in the light of judgment of High Court in C.W.J.C. No. 2294 of 1985. He is entitled for second time bound promotion with effect from 25.5.1987. Reliance has been placed by the petitioner on the direction of the Chief Secretary issued to all the Departmental Secretaries and all Head of the Departments to issue order of time bound promotion due to the employee immediately. Petitioner''s case is that in spite of such direction he has not been given second time bound promotion and finally he superannuated on 31.1.2002.

4. Counter affidavit has been filed on behalf of respondent State where in there is no denial so far the statement of the petitioner regarding his appointment, confirmation and promotion to the post of Senior Accounts Clerk is concerned, but it has been stated that the petitioner has already been given two promotions as such he is not entitled for second time bound promotion and he has been given all due monetary benefits even prior to 25.5.1987 as such his entitlement for second time bound promotion should not be considered. This has duly been replied by the petitioner in his rejoinder stating that the promotion to the post of Accountant in the pay scale of Rs. 850-1360/- was in the light of the order passed by the High Court in C.W.J.C. No. 2284 of 1985. In view of merger of the Junior Accounts Clerk and Senior Accounts Clerk the promotion of the petitioner to the post of Accountant is the first promotion. The ground taken by respondents that two promotions has been given to the petitioner is not correct as his promotion from Junior Accounts Clerk to Senior Accounts clerk cannot be treated as promotion, after merger. The petitioner has also referred the letter contained in Memo No. 794 dated 4.6.1998 in case of one Gautam Roy who was also appointed as Junior Accountant and given promotion to the post of Accountant with effect from 1.2.1980 in the pay scale of Rs. 580-1360/-. This promotion was not considered as promotion on account of merger of Junior and Senior Accounts clerk as one cadre. Gautam Roy was granted 1st time bound promotion. Another objection raised by the State is that the petitioner has not passed Accounts examination. In reply to that the petitioner has placed reliance

on Finance Department letter No. 4178 dated 12.8.1992 where clerks of different works departments have been exempted from passing Accounts examination. Such clerks who have been promoted prior to 1.9.1983, in their case there is no necessity of passing of Accounts examination. In sum and substance all objections which has been raised by the State for not granting second time bound promotion to the petitioner has duly been replied by the petitioner. He has been able to make out a case of second time bound promotion. Accordingly this application is allowed. The respondents are directed to give second time bound promotion to the petitioner with effect from 25.5.1987 with all consequential as well as monetary benefits. This benefit should also be considered in case of fixation of pension and pensionary benefits of the petitioner. This order must be passed within six weeks from the date of receipt/production of a copy of this order.