
(2007) 08 PAT CK 0083
In the Patna High Court
Case No : LPA No. 657 of 2006

Pramod Kumar Sinha

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 16-08-2007

Acts Referred:

Citation : (2008) 2 PLJR 357

Hon'ble Judges : J.N. Bhatt, C.J;Kishore K. Mandal, J

Bench : Division Bench

Advocate : S.B.K. Mangalam, for the Appellant; Ashok Kumar Dubey, for the Respondent

Final Decision : Dismissed

Judgement

1. In this Letters Patent Appeal under Clause 10 of the Letters Patent of the Patna High Court, the appellant has challenged the judgment of the learned Single Judge, dated 3.7.2006, passed in CWJC No. 1416 of 2000. The material conspectus of facts may be articulated at the outset so as to appreciate the merit of the appeal, as well as challenged against it. Following facts have emerged, unquestionably, from the records of the present case:-

(i) The appellant-original writ petitioner appointed on 28.2.1958 on the post of Sub-overseer in the Department of Minor Irrigation.

(ii) During the period of his service, he continued to officiate as Overseer and continued to do the work as such.

(iii) He contended that on 20.9.1964, the Department of Irrigation had issued a circular to the effect that the Sub-overseer would be promoted to the post of Overseer, if they satisfied the material criteria that they served in the department for six years and had good record of service and had also passed matriculation examination.

(iv) The second circular dated 8.1.1992 (Placed at Annexure-C to the counter

affidavit filed on behalf of respondent Nos. 2 to 5) came to be issued by the Water Resources Department deciding that Sub-overseers who have continuously officiated as Overseer would be promoted to the post of Overseer from the date they were officiating as such, provided they had not retired;

(v) The appellant-original writ petitioner retired on 31.10.1993 and he never made such claim which is, subsequently, raised by filing a writ petition being CWJC No. 11426 of 1997 which was disposed of with a direction to the appellant-original writ petitioner to file a representation before the Secretary, Water Resources Department, in this behalf and the Court directed to dispose of such representation within three months from the date of filing of the representation.

2. It has been contended on behalf of the appellant original writ petitioner that even though there was a circular of the department, he was not given the benefit of promotion and he was allowed to retire on 31.10.1993. He had admittedly not raised any dispute for promotion on the basis of the said circular. Thereafter, he waited for almost four years and filed his first writ petition which came to be disposed of on 9.8.1999, as stated hereinabove.

3. The second contention which has been advanced on behalf of the appellant has been that the order of the Court in the first writ petition came to be complied and the petitioner had filed a representation before respondent No. 2 which came to be disposed of by him by the impugned order dated 20.11.1999 which was challenged in the writ petition. It is further submitted that the representation was disposed of considering only letter No. 4493 dated 14.3.1977 of the Public Works Department, as well as, circular No. 11585, dated 2.11.1987.

4. The contention, therefore, has been advanced that since respondent No. 2 has wrongly rejected the representation, therefore, the order of respondent No. 2 rejecting the representation came to be challenged by filing the aforesaid writ petition, but, unsuccessfully.

5. After having considered the text and the averment in the Circular of 1964, as well as, the Government resolution of 1992, it becomes very clear that the petitioner is not entitled to the benefit thereof. The rejection of the representation by the respondent No. 2 could not be said to be illegal. We do not find any illegality or perversity in the order of the learned Single Judge. Therefore, in our opinion, this appeal is without any substance and deserves to be dismissed. In the result, this Letters Patent Appeal shall stand dismissed. No costs.