
(2014) 02 PAT CK 0088
In the Patna High Court
Case No : CWJC No. 21425 of 2012

Pramoda Nand Jha

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 12-02-2014

Acts Referred:

Citation : (2015) 1 PLJR 243

Hon'ble Judges : Ajay Kumar Tripathi, J

Bench : Single Bench

Advocate : L.P.K. Rajgrihar, Advocates for the Appellant; Shiv Kumar and Sudhir Singh, Advocates for the Respondent

Judgement

Ajay Kumar Tripathi, J.—Petitioner wants quashing of the decision contained in Annexure-5, by virtue of which the benefit of 1st time bound promotion given to him in the year 1989 has now been decided to be taken away or annulled on 2.5.2010. The reason for doing so is that the petitioner passed the departmental examination on 9.11.1998, therefore, he was not entitled to be given the benefit of time bound promotion in the year 1989. Learned counsel for the petitioner submits that the petitioner has now superannuated. This benefit remained in favour of the petitioner right from 1989 till the age of his superannuation. It is not even hinted in the order that the petitioner had a role in obtaining the benefit of time bound promotion by some kind of misrepresentation.

2. In addition to that, he also relies on a Full Bench decision in the case of Maheshwar Prasad Singh and Others Vs. The State of Bihar and Others, to indicate that time bound promotions are basically not substantive promotions but a measure for removing stagnation, therefore, the condition of passing departmental examination etc. are not applicable to such benefits.

3. Law is quite well settled on this issue that not only such benefits cannot be taken away after retirement of the petitioner that too after more than two decades when no objection was raised earlier on this account. Time bound

promotion was granted in the year 1989. Petitioner derived benefit thereof and only after his retirement that an objection was sought to be raised to take away the benefit conferred upon him by the respondent authorities themselves after so many years.

4. Even otherwise, the benefit of such kind cannot be undone after superannuation of the petitioner. It is already established by some other leading decisions by following yet another Full Bench decision in the case of Bihar State Electricity Board and Others Vs. Ram Kumar Bharti @ R.K. Bharti and Others .

5. In view of settled position in law, the impugned order contained in Annexure-5 is hereby quashed. Writ application is allowed. Post retirement benefit of the petitioner will now be settled on the basis of the grant of 1st time bound promotion as it stood prior to passing of Annexure-5.