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**(2003) 08 PAT CK 0087**  
**In the Patna High Court**  
**Case No : L.P.A. No. 637 of 1997**

Ram Bilas Prasad Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 29-08-2003

**Acts Referred:**

**Citation :** (2003) 3 BLJR 1850 : (2003) 4 PLJR 483

**Hon'ble Judges :** Ravi S. Dhavan, C.J;P.N. Yadav, J

**Bench :** Division Bench

**Advocate :** Keshav Shrivastava and Manoj Ranjan Singh, for the Appellant; A.N. Singh, SC 8, for the Respondent

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## Judgement

Ravi S. Dhavan, C.J. and P.N. Yadav, J.—The writ petition brought by Ram Bilas Prasad Singh was on a grievance that his seniority has been wrongly fixed and admittedly respondent No. 7, Shri Hemant Lal, having been appointed subsequently, the denial of promotion to the said appellant was unfair and arbitrary.

2. There were other co-related issues of any weightage which may have been rightly or wrongly considered i.e. time bound promotion. But, the latter aspect is now not relevant.

3. When this appeal taken up statement was made at the bar by the learned Counsel for the petitioner-appellant, who is aggrieved by the judgment on the writ petition, which met with no success, that the respondent has died. Today, the petitioner-appellant has also retired.

4. The issues as were brought in the writ petition of any promotion which was granted to the respondent No. 7, the facts were that between the petitioner and the respondent No. 7 they were not on level playing field. Any promotion which may have been picked up by the aforesaid respondent was on the ground of reservation and accelerated promotion. On merits, the petitioner-appellant contended that even on this what was granted to this respondent was unfair,

arbitrary and if the dates of appointments were to be seen, clearly even of promotion granted to respondent No. 7, as a reserved candidate could not be over him. The Court will permit the merits to rest. There is a reason for this.

5. If the Court were to make a mistake upsetting the judgment and passing any directions then one thing is clear that it cannot be against a dead man. The directions of the Court will affect any service benefit which accrued during the service, it would be varied by the direction of the Court. Can the Court do this?

6. If this were a lis between landlord and a tenant or a testamentary case or a property dispute then the Court may not have required or permitted the heirs to be substituted. But who will plead the case of a dead respondent about competing service benefits during service?

7. The Court should not be seem to be passing any direction which may affect a person who cannot answer his case. The case thus must die between the retired petitioner-appellant and the dead respondent.

8. It is entirely another matter if the petitioner-appellant was to represent to the Government for any ex-post facto relief. But let it be understood that the Court cannot give any direction.

9. As nothing has been decided on merit in the appeal, the appeal is consigned.