

(2009) 12 JH CK 0069
In the Jharkhand High Court

Ram Lakhan Prasad

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 01-12-2009

Acts Referred:

Citation : (2009) 12 JH CK 0069

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Heard the learned Counsel for the parties.

2. Challenge, in this writ application, is to the order dated-27.12.2004 (Annexure-11), passed by the Deputy Commissioner, Hazaribagh, whereby the petitioner's claim for grant of the first and the second time bound promotions, has been rejected.

3. Earlier with the same prayer, the petitioner had approached this Court by filing a writ application vide W.P. (S) No. 4434 of 2004. The writ application was disposed of by order dated 14.09.2004 with a direction to the Respondent-Deputy Commissioner for recording a fresh decision after taking into consideration as to whether the passing of the Hindi Noting & Drafting Examination was essential or not, in the case of the petitioner.

4. It was pursuant to the aforesaid order of this Court that the Deputy Commissioner had passed the impugned order taking a stand that the petitioner having not passed the Hindi Noting & Drafting Examination, he was not entitled to the grant of the benefit of the first and the second time bound promotions. Learned Counsel for the petitioner however, argues that the aforesaid ground on which the petitioner's claim has been rejected, is totally misconceived and misleading. Learned Counsel explains further, that admittedly, the petitioner was initially appointed as Chowkidari Tahsildar. His services continued to be regularly taken and sometime in the year 1986, by a Government decision, all such Chowkidari Tahsildars were treated as Government servants. Consequent upon

such decision, the petitioner being treated as a Government servant, he was found entitled to all the benefits of Government servants and accordingly, upon his superannuation, he was given all the retiral benefits including Pension etc. The grievance of the petitioner is that he was entitled to the grant of the benefit of the first and the second time bound promotions as applicable to the Government servants on the basis of his long tenure of service. Learned Counsel adds that even though, for the purposes of promotions, a Circular was issued, whereby the employees particularly in Class III, post were required to pass the Hindi Noting & Drafting Examination but by way of a subsequent amendment in the Rules, relaxation was extended to such employees who had crossed the age of 50 years. The petitioner was, therefore, entitled to the grant of the time bound promotions after he had crossed the age of 50 years and was no more required to pass the Hindi Noting & Drafting Examination.

5. Learned Counsel for the Respondents on the other hand, would deny the prayer of the petitioner on the ground that admittedly, the petitioner was not treated as a Government servant prior to 1986. Having been accepted as a Government servant only in 1986, the petitioner's eligibility for the first time bound promotion would be considered only after he could complete the mandatory 10 years" of service as a Government servant, which, the petitioner has not completed and therefore, according to the learned Counsel, is not entitled to the benefits of the time bound promotions.

6. This issue is now, no more a *res integra*. An identical issue was raised before a Bench of this Court in the case of *Raghu Nayak Lal and Ors.-versus-State of Jharkhand and Ors. vide W.P. (S) No. 1827 of 2002*, in which, the writ petitioners who were initially appointed as Chowkidari Tahsildars, were denied the benefit of the time bound promotions on the ground that from the date when they were recognized as Government servants, they did not acquire the eligibility for any time bound promotions. After considering the case and in the light of the facts stated, this Court had occasion to observe that the Chowkidari Tahsildars working in Chhotanagpur region, were already accepted as Government servants from the date of their initial appointment by the decision of the Government of Bihar in the Department of Revenue & Land Reforms even as admitted by the Respondent-State of Bihar in their counter affidavit and, as such, the employees were entitled for pensionary benefits as well as other benefits like other Government servants. While allowing the writ applications, this Court had directed the Respondents to treat the writ petitioners/Chowkidari Tahsildars as Government servants from the date of their initial appointment and not from the date of their absorption as Chowkiari Tahsildars and the Respondents were further directed to give all the benefits including pensionary, promotional and other benefits to the writ petitioners, which are admissible to Government servants.

7. The ratio decided in the case of *Raghu Nayak Lal and Ors. (Supra)* does squarely apply to the facts of the present case. The petitioner is, therefore,

entitled to all the benefits including pensionary, promotional and other benefits, which are admissible to a Government employee by treating the date of his initial appointment as the period of his service. The concerned authorities of the Respondents are therefore, directed to pass an order afresh on the petitioner's claim in the light of the above observations, within two months from the date of receipt/production of a copy of this order.

8. Let a copy of this order be given to the learned Counsel for the Respondents and a copy be dispatched to the Deputy Commissioner, Hazaribagh by FAX at the cost of the petitioner.

9. With these observations, this writ application stands disposed of.