
(2010) 09 PAT CK 0011
In the Patna High Court
Case No : CWJC No. 15927 of 2006

Ram Narayan Goswami

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 24-09-2010

Acts Referred:

Citation : (2012) 4 PLJR 280

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Advocate : Y.V. Giri, Raju Giri, for the Appellant; Anil Kumar Jha for the State and Mr. S.S. Sundaram for the Commission, for the Respondent

Final Decision : Allowed

Judgement

Ajay Kr. Tripathi, J.—Annexure-11 is the order by virtue of which promotion of the petitioner to the post of Stenographer granted in terms of Annexure-10 dated 15th September, 2003 has been undone and petitioner has been reverted to the post of Kamdar. Annexure-11 therefore is under challenge in the present writ application. Learned Senior Counsel representing the petitioner submits that the order of reversion has been passed in clear breach of the principles of natural justice as no opportunity of hearing was given and it has also been passed without due application of mind to the facts and issue under which Annexure-10 came to be notified promoting the petitioner on the post of Stenographer by the respondent authorities. It is his case that the promotion of the petitioner to the post came to be granted under 50 per cent quota reserved for promotion from Class-IV post to Class-III post for which a limited departmental examination was held as would be evident from Annexure-9 but ignoring such facts and declaring that the promotion of the petitioner was made on certain error is totally misplaced and is worthy of interference.

2. Some facts which are not in dispute are that petitioner was initially, appointed as a Kamdar by the respondents on 26th of March, 1984. The said letter of appointment is Annexure-1. Contention of the petitioner is that looking at his

qualification, his talent and expertise in handling computer and shorthand, he came to be transferred and deployed at various offices including the Headquarters at Patna from time to time. Those notifications are also on record as annexures. Petitioner was even deputed to undergo computer training and was made to work as a stenographer attached with various authorities from time to time. There is no dispute about the capability and ability of the petitioner to perform such responsibility thrust upon him over many a years.

3. In this background when a post of stenographer became vacant in the office of the Assistant Cane Commissioner, North Bihar at Muzaffarpur, a direction was issued by the Cane Commissioner, Patna in terms of Annexure-8 for holding a departmental examination to give an opportunity to persons capable of being selected or promoted to the post in question which was the post of stenographer. Based on this directive contained in Annexure-8, petitioner was put through scrutiny which would be evident from Annexure-9 and thereafter the committee consisting of four high officials decided to confer the benefit of promotion to the petitioner on the post of stenographer. Necessary order of promotion was issued based on Annexure-9, which is Annexure-10 dated 15th September, 2003.

4. After issuance of Annexure-10 petitioner continued to work on the post in that capacity till Annexure-11 came to be issued.

5. The stand of the respondent State is that the promotion given to the petitioner was not in conformity or the requirement in this regard. Since Bihar Staff Selection Commission has come to be instituted in the year 2002, any promotion to the post was required to be routed through the Commission and the Commissioner could not have granted benefit of promotion or appointment to the petitioner in terms of Annexure-10.

6. It is in this background that Commission was directed to file a counter affidavit. Stand of the Staff Selection Commission in para 7 of the counter affidavit is that the Commission is concerned with regard to appointment which is in relation to fresh appointment on the post below the scale of Rs. 6500-10500. The Commission in terms of Section 5 is not the recommending body for promotional matter.

7. Though during the course of submission a stand was taken that even for the 50 per cent promotional avenue post a limited competitive examination is required to be held by the Commission but neither reading of Section 5 nor reading of the counter affidavit in any manner supports such an oral submission made at the bar.

8. Be that as it may, it is not the case that the petitioner has come to acquire the privilege of promotion to the post of stenographer through any backdoor method or methodology. Petitioner was put through the screening which was required to be done in matters of promotion by giving the avenue for such promotion under 50 per cent quota of the employees working on a Class-IV post. The decisions in support of the exercise behind such a decision are available on record which are

all official documents and have not been denied. Merely saying that the decision was Trutipurna, may not be good enough to interfere, with the order of promotion granted in favour of the petitioner.

9. The stand of the petitioner that this order came to be passed having civil consequences in breach of the principles of natural justice also seems to be correct because reversion is a punishment and having civil consequences and such orders cannot be passed over night by issuing order of the kind which is an office order, contained in Annexure-11. Petitioner has made out a case for interference. Annexure-11 stands quashed. The writ application is allowed.