

(2019) 04 PAT CK 0038

In the Patna High Court

Case No : Letters Patent Appeal No. 406 Of 2015, Civil Writ Jurisdiction Case No. 10380 Of 2006

Sanjay Kumar Singh

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 09-04-2019

Acts Referred:

Citation : (2019) 04 PAT CK 0038

Hon'ble Judges : Jyoti Saran, J;Arvind Srivastava, J

Bench : Division Bench

Advocate : Gyandra Kumar Shukla

Final Decision : Disposed Off

Judgement

Arvind Srivastava, J

Heard Mr. Gyanendra Kumar Shukla, learned counsel for the petitioner and learned counsel for the State.

This appeal arises from a judgment and order of the learned Single Judge passed on the writ petition preferred by the appellant arising from C.W.J.C. No. 10380 of 2006 whereby a challenge to the order cancelling the promotion by way of working arrangement dated 22.05.2006 was not interfered with by the learned Single Judge to dismiss the writ petition.

When this matter was taken up for consideration before this Court learned State counsel informed that the case of the petitioner was pending consideration on promotional issue and thus an adjournment was prayed to place the correct position on record. It is thereafter that an affidavit is filed on behalf of the respondent No.2 and 6 through the Deputy Secretary, Art, Culture and Youth Department, Government of Bihar, Patna and a few paragraphs of the affidavit are sufficient to dispose of the appeal for in our opinion whatever be the grievance of the petitioner and whether or not the challenge of the appellant-petitioner to the cancellation of the promotional order by way of working

arrangement, held merit, pales into insignificance.

The respondents in paragraph 9 of the supplementary counter affidavit filed on 02.04.2019 have informed that the petitioner has been promoted to the post of Deputy Director vide notification dated 02.05.2017 in the scale of Rs.15,600-39,100 with Grade Pay of Rs.6600/-. It is further mentioned at paragraph 12 of the counter affidavit that the proposal has been forwarded for giving promotion to the appellant to the post of Joint Director.

While discussing the service history of the petitioner in paragraph 14 onwards it is mentioned that since post did not have promotional avenues nor any cadre rule had been framed that the petitioner was given a financial progression under the Bihar State Employees Conditions of Service (Assured Career Progression Scheme) Rules, 2003 (hereinafter referred to as the 'ACP Rules') on completion of 12 years of service in the next higher scale of Rs. 7500 - 12000 with effect from 17.11.2001. It is again stated in paragraph 21 that the pay scale was revised with effect from 01.01.2006 and on the enforcement of the Bihar State Employees Conditions of Service (Modified Assured Progression Scheme) Rules, 2010 (hereinafter referred to as the 'MACP Rules') the petitioner on completion of 20 years of service was given second MACP in Pay Band 2 (9300-35800) with Grade Pay of Rs. 5400/- with effect from 13.11.2009. It is after granting the financial progression pending under 'ACP Rules' and the 'MACP Rules' that petitioner has also been promoted to the post of Deputy Director on 02.05.2017 and is being considered for further promotion to the post of Joint Director.

In the nature of affidavit that is placed by the State we completely fail to appreciate the reason for the petitioner to pursue the present appeal as in our opinion, no cause subsists for the appellant- petitioner either on the initial challenge or in the changed circumstances noted above, to maintain this appeal which is disposed of accordingly.