

---

**(2004) 02 PAT CK 0034**  
**In the Patna High Court**  
**Case No : C.W.J.C. No. 6176 of 2000**

|                                   |    |            |
|-----------------------------------|----|------------|
| Satyendra Kumar Manjhi and Others | Vs | APPELLANT  |
| State of Bihar and Others         |    | RESPONDENT |

---

**Date of Decision :** 16-02-2004

**Acts Referred:**

**Citation :** (2004) 1 BLJR 814 : (2004) 2 PLJR 781 : (2004) 2 PLJR 761

**Hon'ble Judges :** Narayan Roy, J

**Bench :** Single Bench

**Advocate :** Gyanand Roy and Pallavi Mishra, for the Appellant; JC to SC 8, for the Respondent

---

## Judgement

Narayan Roy, J.—Heard counsel for the parties.

2. By this application, the petitioners pray for quashing the order dated 11.03.2000, as contained in Annexure 9, whereby and whereunder the representation of the petitioners has been rejected.

3. According to the case of the petitioners, they were appointed on Class IV posts vide office order No. 1085 dated 14.07.1979, pursuant to an advertisement issued in the year 1977. The petitioners continued on Class IV posts under respondent No. 3, Joint. Commissioner, Sales Tax Purnea Division, Purnea, and when they became eligible for time bound promotion they requested the authorities to confirm them on Class IV posts and grant them the time bound promotion in accordance with law.

4. The prayer of the petitioners was not acceded to. The petitioners thereafter came to this Court in C.W.J.C. No. 8141 of 1998 and this Court after giving sufficient opportunities to the State counsel to file counter affidavit, disposed of the same on 28.07.1999, with a direction to the Commissioner, Sales Tax, Government of Bihar, Patna to consider the claims of the petitioners for their (confirmation and consequent thereto, to give them the time bound promotion, if they are found eligible for the same.

5. It appears from the order passed by this Court that the State counsel did not file any counter affidavit and the writ, application was disposed of on its own fact. Pursuant to direction of this Court, the impugned order, as contained in Annexure 9, has been issued declining the claims of the petitioners.

Learned counsel for the petitioners submitted that it is not in dispute that the petitioners along with others were appointed on Class IV posts with effect from 14.07.1979, pursuant to an advertisement issued by the competent authority and they are continuing in services under respondent No. 3. It is further submitted that the authorities while disposing of the claim of the petitioners held that the petitioners should continue in services, but they cannot be considered for their confirmation and benefits of time bound promotion, as their appointments are found to be doubtful. It is also submitted by learned counsel for the petitioner that some of the similarly situated persons, who were also appointed with the petitioners on Class IV posts, namely, Nirmal Kumar Mitra, Ram Kumar Tiwary and Basukinandan Singh, were confirmed on Class IV posts and were promoted to Class III posts.

6. JC to SC 8 with reference to the counter affidavit submits that certain inquiries were made with regard to appointment of the petitioners and till date the authorities are not satisfied that they are the valid appointees, and, therefore, their claims for confirmation and time bound promotion have been rejected.

7. From the order impugned, it is manifest that the authorities are still in a fix to take a decision in the matter and at the same time, they have held that the petitioners should continue on the posts aforesaid. In case, the petitioners were found to be not genuinely appointed on Class IV posts, immediate action should have been taken and they could have been terminated. But, on the contrary, it appears that they are continuing on Class IV posts for about 25 years.

8. The fact, as disclosed in paragraph 11 of the writ application, that similarly situated persons, namely, Nirmal Kumar Mitra, Ram Kumar Tiwary and Basukinandan Singh, were promoted to Class III posts, however, is not being denied in specific terms by the respondents. However, in paragraph 9 of the counter affidavit, it is stated :

"That with regard to the statement made in para 11 of the writ application it is stated that person like (1) Nirmal Kumar Mitra (2) Basuki Nandan Singh and Ram Kumar Tiwary were not promoted to the post of Grade III from the post of peon were appointed to the post of clerk by Head quarter. Mr. Dilip Singh was given provisional time bound promotion and not confirmation on his post."

9. From paragraph 9 of the counter affidavit, it appears that some of the persons similarly situated have been confirmed and promoted on Class III posts.

10. Besides all these facts, I fail to understand as to when the petitioners were appointed on Class IV posts even after much Scrutiny of their cases as to whether they are genuine appointees, why the petitioners are not being

confirmed on Class IV posts and are not being given benefits of time bound promotion.

11. Continuance of the petitioners on Class IV posts give them right of promotion and consequently time bound promotion.

12. In absence of any plausible reasons in the counter affidavit it is held that the petitioners are entitled for their confirmation on Class IV posts and also to get consequential time bound promotions.

13. Considering the facts and circumstances of the case, the impugned order, as contained in Annexure 9, is set aside and respondent No. 2, Commissioner, Sales Tax, Bihar, Patna, is directed to consider the cases of the petitioners afresh in the light of the observations aforesaid, made above, for their confirmation and for grant of benefit of time bound promotion. This exercise, however, must be completed by respondent No. 2 within a period of three months from the date of receipt/production of a copy of this order.