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**(2001) 02 JH CK 0008**  
**In the Jharkhand High Court**  
**Case No : CWJC No. 3686 of 1996 (R)**

Shailendra Kumar Sinha

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

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**Date of Decision :** 06-02-2001

**Acts Referred:**

**Citation :** (2001) 02 JH CK 0008

**Hon'ble Judges :** M.Y. Eqbal, J

**Bench :** Single Bench

**Advocate :** B.S. Lal and S. Kumar, for the Appellant; R. Krishna, GP 1, JC to GP 1, for the Respondent

**Final Decision :** Dismissed

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## Judgement

M.Y. Eqbal, J.—In this writ application the petitioner has prayed for regularisation of his service to the post of Research Assistant with effect from 1981 and further to promote him to the post of Assistant Research Officer and to give all consequential benefits thereof.

2. Petitioner's case is that he was appointed as Lab assistant in the year 1975 alongwith others on Muster Roll and work charged as Lab Assistant till November, 1977. In the year 1980 the name of the petitioner alongwith others was recommended for regularisation to the post of Lab Assistant but the case of the petitioner was ignored while other persons including respondent No. 4 were given regular appointment on the post of Lab Assistant. Petitioner made several representations and it was only in 1983 the services of the petitioner was regularised on the said post. Petitioner has given several instances where other persons having similar qualification and similar criteria were given promotion earlier than that of the petitioner. Petitioner's further case is that in 1989 his case was highly recommended for confirmation and promotion from the date the promotion and regularisation was due to him. It is alleged that the petitioner and other persons were appointed by single letter of appointment but for the purpose of promotion different date of appointment were taken into consideration to

favour other persons including respondent No. 4. Petitioner said to have made several representations to the respondents but in spite of that respondents did not consider the representations of the petitioner.

3. A counter affidavit has been filed on behalf of respondent- State denying and disputing the averments made in the writ application. It is stated that in 1980 an advertisement was issued for appointment to the post of Research Assistant and in response to this advertisement several persons have applied. The case of those persons who applied for appointment were considered and appointment was made in 1981. But appointment of petitioner to the post of Research assistant was not considered because he did not apply for the same. So far promotion from Laboratory Assistant to the post of Research Assistant is concerned the petitioner is too junior in Laboratory assistant Cadre to get promotion to the post of Research Assistant. It is further stated that the provision of promotion/appointment to the post of Research Assistant was stayed vide letter dated 21.4.1990. It is further alleged that petitioner's case for promotion to the post of Assistant Research Officer can only be considered if he gets promotion to the post of Research assistant. A separate counter-affidavit has been filed on behalf of respondent No. 4.

4. I have heard Mr. B.S. Lal, learned counsel appearing for the petitioner, Mr. R. Krishna, learned counsel for the respondent No. 4 and also Mr. M.S. Anwar, learned GP I.

5. From perusal of the affidavits filed by the parties and the submissions made by the learned counsels the undisputed fact is that both petitioner and respondent No. 4 alongwith others were regularised on the post of Laboratory Assistant vide office order dated 9.12.1977. Prior to regularisation the initial appointment of petitioner as Laboratory Assistant on Muster Roll was 8.3.1975 whereas appointment of respondent No. 4 on Muster Roll was 1.7.1974. From perusal of office order dated 24.4.1981 which was issued in pursuant of Government decision dated 15.10.1974 it was decided that persons appointed prior to 15.10.1974 on the post of Laboratory Assistant and Laboratory Khalasi may be regularised. A copy of the office order has been annexed as Annexure-B to the counter-affidavit filed by respondent No. 4. It has not been disputed by the petitioner that an advertisement was issued on 28.10.1980 for appointment/regularisation to the post of Research Assistant. Several persons including respondent No. 4 applied for the said post. The respondent-State accordingly appointed several persons including respondent No. 4 to the post of Research Assistant. Since petitioner did not apply for the said post, his case was not considered for appointment. Admittedly, petitioner did not challenge the appointment of respondent No. 4 as Research assistant in 1981. It was only after respondent No. 4 was given promotion to the post of Assistant Research Officer in 1996 vide notification dated 24.9.1996, petitioner made a grievance that his case for appointment/regularisation as Research Assistant was illegally and arbitrarily not considered by the respondent in 1981.

6. Mr. B.S. Lal, learned counsel for the petitioner drawn my attention to several Annexures to the writ application and submitted that since the beginning the petitioner has been filing representation for his appointment/regularisation on the post of Research Assistant with effect from 1981. Curiously enough petitioner accepted the decision of the respondents whereby the services of the petitioner and other persons were regularised on the post of Research Assistant/Laboratory Assistant in 1983. It was only after 15 years petitioner has come out with a case that the promotion/regularisation of respondent No. 4 on the post of Research Assistant in 1981 was illegal and arbitrary, inasmuch as case of the petitioner was not considered. As noticed above, appointment on the post of Research Assistant was made by the respondents in 1981 on the basis of advertisement which was issued in 1980 and the petitioner having been failed to apply to the said post can not claim his appointment with effect from 1981.

7. Having regard to the entire facts and circumstances of the case, I do not find any merit in this writ application, which is accordingly dismissed.

8. Writ application dismissed.