
(2002) 04 PAT CK 0077
In the Patna High Court
Case No : C.W.J.C. No. 2809 of 2002

Sita Ram Prasad Srivastava

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 18-04-2002

Acts Referred:

Citation : (2002) 2 BLJR 981 : (2002) 2 PLJR 694

Hon'ble Judges : R.N. Prasad, J

Bench : Single Bench

Judgement

R.N. Prasad, J.—The petitioner was an Asst. Engineer in the Road Construction Department. He retired with effect from 30.6.1994. While he was in service he was knocking the door of the authority concerned for promotion but it was in vain. After retirement, the petitioner was granted promotion to the post of Executive Engineer vide notification dated 18.6.1996 with effect from 10.6.1988, Annexure-7. However, it has been stated in the notification that he will not be entitled to the monetary benefit of promotion. The petitioner has thus filed the writ petition for quashing part of Annexure-7 whereby monetary benefit has been denied.

2. A counter-affidavit has been filed on behalf of the respondents wherein stand has been taken that since he did not join, he is not entitled to monetary benefit of promotional post.

3. Earned Counsel for the petitioner pointed out that petitioner was eligible for promotion but the respondents did not promote him while he was in service. However, after retirement, respondents promoted him with effect from 10.6.1988 as indicated above but for the laches of the respondents, the petitioner cannot be made to suffer. However, according to earned Counsel for the respondents that since he did not join the promotional post nor he discharged the work of promotional post and as such, he is not entitled to monetary benefit of the promotional post. It appears that there was laches on the part of respondents in not allowing due promotion. Therefore, for the laches of the respondents in

granting due promotion in time the petitioner cannot be made to suffer. Moreover, since respondents were at fault and as such they cannot be allowed to turn around to say that he is not entitled to the monetary benefit of the promotional post. Similar question was considered by the Court in the case of Alappat Narayana Menon v. State of Kerala 1977 (2) SLR 656 and it was held that in case of promotion employees are entitled to consequential benefit. This Court also considered similar aspect of the matter in the case of Dr. Paras Nath Prasad Vs. State of Bihar and Others, and came to the conclusion that in case promotion is allowed the employee is entitled to monetary benefit of promotional post.

4. Thus, on consideration it appears that petitioner was not granted promotion while he was in service because of laches and fault of the respondents. However, he was promoted after retirement in the year 1996 with effect from 10.6.1988 but denied monetary benefit. For such laches, petitioner cannot be made to suffer in any manner. Therefore, writ petition is disposed of. The portion of order, Annexure-7, whereby monetary benefit was denied is hereby quashed. The petitioner shall be entitled to monetary benefit of promotional post with effect from 10.6.1988 till the date of retirement. Respondents are accordingly directed to pay entire monetary benefit of promotional post as indicated above within a period of three months from the date of receipt/production of copy of this order.