

(2000) 10 PAT CK 0001
In the Patna High Court
Case No : C.W.J.C. No. 4888 of 1983

Sri Baleshwar Tiwary

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 18-10-2000

Acts Referred:

Citation : (2001) 3 PLJR 456

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Raghiv Ahsan and Khurshid Ahmed Siddique, for the Appellant; A.K. Singh and Rana B.N. Singh, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—The Petitioner was initially appointed as Sub-Overseer on 25th January, 1960 and was subsequently made Overseer, now known as Junior Engineer Taking into consideration his total length of service, including the period while Petitioner functioned as Sub-Overseer, he was allowed the benefit of seniority and posted to higher post of Sub-divisional Officer, a post of the rank of Assistant Engineer.

2. It appears that the seniority of persons whose period of service as rendered as Sub-Overseer was included was challenged by certain persons before this Court in C.W.J.C. Nos. 481/80; 482/80; and 4644/82. In those cases, certain decisions were given by this Court, affecting the seniority of those who were initially appointed as Sub-Overseer, including the Petitioner. In view of such finding, the order of posting of Petitioner as S.D.O. and the seniority list were cancelled, vide impugned Order No. 5009 dated 14th July, 1983.

3. The Petitioner has challenged the aforesaid impugned order dated 14th July, 1983 in the present case. In the meantime, Special Leave Petitions were also preferred before the Supreme Court against the judgment passed in C.W.J.C. No. 481 of 1980 and analogous cases.

4. This case was admitted on 18th November, 1983 and interim order was

passed in favour of Petitioner. The Petitioner was allowed to work as Sub-divisional Officer, with specific directions to the Respondents not to revert him subject to condition that his continuance as such will not prejudice or affect the promotion and other chances of any other competent officer of the department concerned.

5. In view of interim order aforesaid, the Petitioner continued as Sub-divisional Officer and superannuated on 31st January, 1998.

6. In the meantime, the Supreme Court while affirmed the judgment of this Court passed in C.W.J.C. No. 481 of 1980, gave certain protection to those who continued by interim arrangement as Sub-divisional Officer but retired from the service. This will be evident from order of Supreme Court dated 23rd January, 1996, passed in Civil Appeal No. 5301 of 1983 and analogous cases (Annexure-36). In the said case, the Supreme Court taking into consideration the fact that Appellants of those cases, except two, had already retired from service, observed that the order as made final, but whatever position the respective Appellants held at the time of retirement, they must be deemed to have retired according to rules with all consequential benefits and the said order was ordered not to have any effect on the chance of Respondents continuing in the respective posts or their entitlement to any promotional post in accordance with law.

7. In the present case, admittedly, the Petitioner continued as Sub-divisional Officer in view of interim order dated 18th November, 1983. The superannuated from service on 31st January, 1998, where in after he is entitled for retiral benefits in accordance with law. The pension, gratuity etc. are to be fixed on the basis of last pay drawn by Petitioner.

8. In the facts and circumstances, the posting order having continued till the date of retirement, while I find no reason to interfere with the same at this stage, also hold that the Petitioner will not be adversely affected in the matter of post retiral benefits to which he is entitled on the basis of last pay drawn by him.

9. The writ petition stands disposed of with the aforesaid observations. No cost.