

(2000) 09 PAT CK 0076
In the Patna High Court
Case No : M.J.C. No. 1907 of 2000

Sri Prem Lal Saha

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 05-09-2000

Acts Referred:

Citation : (2001) 1 PLJR 658

Hon'ble Judges : Ravi S. Dhavan, C.J.;Aftab Alam, J

Bench : Division Bench

Advocate : Party in Person, for the Appellant;

Final Decision : Dismissed

Judgement

1. This M.J.C. petition was filed for "restoration" of L.P.A. No. 779 of 1999 which was dismissed because it was filed beyond the period of limitation and no petition for condonation of delay was filed even after time was allowed for the purpose by the Joint Registrar. In view of the reason for the dismissal of the letters, patent appeal there could be no question of its "restoration" and the M.J.C. was therefore, listed with the office note rightly raising an objection regarding its maintainability.

2. We found that this M.J.C. petitions contained some nasty allegations against the lawyer who happened to be the Advocate on record in the letters patent appeal. We also found that the Petitioner was appearing in person in support of this M.J.C. petition. He is an old man superannuated from service about ten years ago. In court he was flustered and (sic). This court, therefore, felt obliged to give the Petitioner a patient hearing and to examine his grievances closely lest there be any miscarriage of justice. We accordingly got the records of the earlier cases filed by him brought to the Court and heard the Petitioner at length on more than one dates. At the end of the exercise we found that there was absolutely no merits in the Petitioner claims and it was not possible for this Court to give him any relief.

3. The Petitioner seems to have picked up the habit of filing petitions in this Court every now and then in (sic) hope that he might get some (sic) benefit out of them. He seeks extra ordinary reliefs which no court of law (sic) allow him and dealing with those petition is plainly a waste of court's time. This would be evident from the following.

4. The Petitioner retired from Government service with effect from 30.9.1990. At that time he was working as Head Assistant under the Superintending Engineer, Mechanical Circle, National Highway. After his retirement from service, he first came to this Court in CWJC No. 8755 of 1991 making allegations of adverse treatment being meted out to him by his superiors while in service and seeking a number of reliefs. That writ petition was permitted to be withdrawn on 21.4.1992 leaving it open to the Petitioner to agitate his grievances by making a representation before the appropriate authority. In furtherance of the order, the Petitioner made his representation before the departmental authority which was rejected by an order, dated 9.9.1992

5. He then filed CWJC No. 10146 of 1992, inter alia, seeking to challenge the order, dated 9.9.1992 rejecting his representation. In this writ petition being second in the series he also prayed for a charge number of reliefs. These included a direction for extension of his service, at least for seven years, with effect from 1.10.1990 as compensation to the harassment suffered by him while in service. His (sic) was also directed towards one Madan Mohan Srivastava with whom the Petitioner seems to have a dispute of seniority. Though the aforesaid Madan Mohan Srivastava was not impleaded as Respondent in that writ petition but that did not prevent the Petitioner from asking the court to cancel the promotion given to him and to alter his seniority position and a declare the Petitioner senior to him. A (sic) was also made regarding non-payment of his retirement dues.

6. So far as the retiral dues were concerned a bench of this Court even at the pre admission stage of the case issued detailed directions vide order, dated 14.12.1992 for payment of all retiral dues to the Petitioner. Thereafter, the case was admitted for hearing on 17.2.1993 and it was finally heard and disposed of by judgment and order, dated 23. 6.1993. In that judgment, a learned Judge of this Court found that the Petitioner was given provisional promotion to the post of Head Assistant with effect from 30.7.1982. Later, on his representation the date of his promotion as Head Assistant was shifted back to 25.10.1975 without, however, allowing him the arrears of salary or any other consequential benefits for the period between 20.10.1975 to 29.7.1982. Again on another representation filed by the Petitioner his date of promotion to the post of Head Assistant was further shifted back to 1.3.1969, however, with the stipulation that no financial benefit will be given to the Petitioner flowing from this re-fixation of his date of promotion. Still later by order, dated 22.12.1987 the Petitioner was held entitled to the salary of Head Assistant with effect from 1.12.1979 and though the date of promotion was fixed with effect from 1.3.1969 it was made

clear that no arrears of salary for the period from 1.3.1969 to 30.11.1979 will be given to him. On a detailed consideration of all the materials on record it was found and held that all the reliefs sought by the Petitioner were without any merit, save and except the one relating to his claim for his arrears of the differential pay for the post of Head Assistant for the period from 1.3.1969 to 30.11.1979. The operative portion of the judgment reads as follows:

17. Having noticed the facts and circumstances aforementioned, I hold that the Petitioner is entitled to receive the difference of pay with effect from 1.3.1969 and also fixation of pay for the purpose of determination of pension, gratuity etc. with effect from due date.

18. In the result this writ application is partly allowed to the extent indicated above. The Respondents are directed to fix pay and allowances of the Petitioner with effect from 1.3.69 as also fix the pension, gratuity etc. on the basis of such determination. They are also directed to pay interest at the rate of 12 per cent on all the arrears. The aforementioned directions must be implemented within three months from the date of production/receipt of a copy of this order before Respondent No. 2.

7. It is an admitted position that all the directions given by this Court in that case have been duly carried out by the concerned authorities and the Petitioner has received those benefits.

8. Five and a half years after the judgment was given in the aforementioned writ case, the Petitioner filed yet another writ petition being C.W.J.C. No. 11404 of 1998. In this writ petition he again tried to agitate his fanciful grievances regarding harassment at the hands of his superiors and as compensation asked the court to give a direction for his promotion with retrospective effects and to give him all consequential benefits or in the alternative a direction to give appointment to one of his sons. In course of hearing before this Court he seemed to be more interested in the appointment of his son and in support of his claim he relied upon a recommendation made by the Minister then incharge of the department. In effect and substance, he wanted this Court to enforce the recommendation made by the Minister for the appointment of his son. A learned Judge of this Court naturally dismissed this writ petition by judgment and order, dated 16.4.1999 holding that no direction could be issued for appointment of the Petitioner's son on the basis of the Minister's recommendation.

9. A letters patent appeal being L.P.A. No. 779 of 1999 was taken against the judgment and order passed by the learned single Judge. This appeal was filed on 28.6.99 after the limitation expiree on 21.6.1999. It may be noted here that though in the earlier two writ petitions the Petitioner had appeared in person, he entrusted the task of filing the letters patent appeal to a lawyer. On 9.3.2000 the appeal was listed before the Lawazima Board in which the Joint Registrar allowed three weeks' time for filing limitation petition as prayed on behalf of the Appellant. No limitation petition was filed during the period allowed for the

purpose and the appeal was accordingly listed for orders on 11.5.2000. On that date this bench dismissed the appeal as barred by limitation and there being no petition for condonation of the delay in its filing.

10. Then the M.J.C. petition in hand was filed for its "restoration" with the Petitioner appearing in person to plead his case. In course of hearing we were surprised by the wild and extra ordinary prayers made by the Petitioner. As noted above, the Petitioner was a Class (sic) Government employee and rose to the rank of Head Assistant. Therefore, out; would have expected him to know better than insist before this Court for a direction for the appointment of his son on the basis of the Minister's recommendation as compensation to the harassment suffered by him while in service.

11. Having heard him for some time we are inclined to believe that contrary his allegations, the Petitioner himself must have been a constant source of harassment to his colleagues and superiors. (sic) course of hearing, it came to light the one of his sons was already given appointment on the basis of some one's recommendation and apparently by the (sic) adopted by the Petitioner. He (sic) told the court that only one of his sons was out of employment and, therefore, this Court must rise to the occasion and issue direction for his appointment as recommended by the "generous End benevolent" Minister. We are afraid in are unable to show any such generosity and benevolence at the expense of the other citizens of the State.

12. The Petitioner can neither be given a direction for appointment of his son nor a direction for his retrospective promotion and the Petitioner must clearly understand that his fanciful stories and is claims founded on his imagined grievances come to a close so far as this Court is concerned. The Petitioner will do better to spend the evening of his life in some activities more peaceful and positive, rather, than indulge in such (sic) litigations in court. Though this matter calls for awarding costs, we refrain from doing so having regard to the fact that the Petitioner is an old man and has retired from service about a decade ago.

13. This M.J.C. petition is dismissed.