
(1996) 08 PAT CK 0003
In the Patna High Court
Case No : C.W.J.C. No. 7624 of 1993

Syed Zaki Imam

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 26-08-1996

Acts Referred:

Patna Municipal Corporation Act, 1951 — Section 338, 388(1), 388(2)

Citation : (1996) 2 PLJR 910

Hon'ble Judges : J.N. Dubey, J

Bench : Single Bench

Advocate : Rudra Deo Kumar Singh and Uttam Kumar Mishra, for the Appellant;
B.P. Gupta, for the Respondent

Final Decision : Allowed

Judgement

J.N. Dubey, J.—This writ petition is directed against the order dated 15th June, 1993 of the Respondent No. 3, the Executive Officer, Patna Water Board, Patna.

2. It appears that the Petitioner was appointed as Clerk in Patna Water Board on 27.6.1960. On 3rd February, 1981 the State Government decided to extend the pay and other benefits, admissible to the employees of the State Government, to the non-teaching staff of the Local Bodies. Accordingly, the Petitioner started getting salary and other benefits admissible to the employees of the State Government of that cadre. He was also granted the benefit of the recommendations of 4th and 5th Pay Revision Committees like other State Government employees except the time-bound promotion. On 18.11.992 Respondent No. 2, the Administrator, Patna Municipal Corporation, Patna and Patna Water Board, Patna decided to implement the time-bound promotion scheme to the employees of the Corporation with effect from 1.4.1981. Although Respondent No. 2 had specifically directed that time bound promotion scheme should be implemented immediately, no time-bound promotion was granted to the Petitioner and, as such, he filed C.W.J.C. No. 12152 of 1992 in this Court which was disposed of on 30th March, 1993 with a direction to the Petitioner to

file a representation to the Respondent No. 2 for the redress of his grievances. He, accordingly, filed a representation to the Respondent No. 2 which was rejected on 15th June, 1993 on the ground that time-bound promotion scheme has not yet been enforced in the Patna Water Board. Feeling aggrieved the Petitioner has filed this writ petition.

3. Heard the learned Counsel for the parties and perused the record.

4. Learned Counsel for the Petitioner contended that in view of the fact that the Petitioner has been getting pay and other benefits, admissible to the employees of the State Government including the benefits of the recommendations of the 4th and 5th Pay Revision Committees, the Respondents were not legally justified in refusing to grant time-bound promotion to him on the ground that time-bound promotion scheme has not yet been enforced in the Patna Water Board.

5. I find substance in the argument of the learned Counsel. The time-bound promotion scheme was part of the recommendations of the 4th Pay Revision Committee and, as such, once the recommendations of the 4th Pay Revision Committee were implemented it could not be legally claimed that time-bound promotion scheme has not yet been enforced in the Patna Water Board. Moreover, the Respondent No. 2 vide his order dated 18-1-1992 has specifically directed for implementation of the time-bound promotion scheme with effect from 1-4-1981 and, therefore, the Respondents cannot be heard saying that the time-bound promotion scheme has not yet been enforced in the Patna Water Board. My this view finds support from a decision of this Court in C.W.J.C. No. 11135 of 1992, Shashi Bhushan Prasad Sharma v. State of Bihar and Ors., in which this Court held as under:

I do not find any substance in the submission of the learned Counsel for the Corporation. In the operative part of the said decision taken by the Administrator it is mentioned that time-bound promotion should be given to all employees in junior and senior selection grades with effect from 1.4.1981. The learned Counsel for the Corporation however, points out that the said decision was only applicable to such employees, who had not been given promotion either in junior or senior selection grade. There cannot be any dispute to the said submission of the learned Counsel. The decision to implement the grant of time-bound promotion with effect from 1.4.1981 was taken by the Administrator only because the employees used to not get the promotion in the regular manner. The scheme of the Government also, which is based on the recommendation of the Pay Revision Committee for grant of time-bound promotion is also applicable only in the cases where the employee has not been given promotion and qualify for the same by putting a fixed tenure of service of 10 years for consideration of their cases for the first time-bound promotion and 25 years for consideration of their cases for second time-bound promotion. In paragraph 15 of the writ petition it has been specifically stated by the Petitioner that although the Petitioner has completed about 30 years of service, he has been kept stagnant on the post on which he was appointed about thirty years back and has not been

promoted. This fact has not been denied by the Respondents.

6. The Patna Water Board has been created u/s 338 of the Patna Municipal Corporation Act, which reads thus:

Corporation's functions regarding water supply to be exercised through Patna Water Board.-(1) For the purpose of providing a supply of water, proper and sufficient for public and private purposes, the Corporation may, either within or without Patna, -

(a) construct and maintain waterworks and do all acts which may be necessary or expedient in connection with such construction or maintenance;

(b) purchase or take on lease any water work or any water or right to share water or to take and convey water; or

(c) enter into arrangements with any person for the supply of water.

(2) For the purpose of giving effect to the provisions of Sub-section (1), the Corporation shall exercise its executive authority through a Board which shall be known as "the Patna Water Board" (hereinafter referred to as the Board), consisting of-

(a) the Chief Engineer of the Public Health Engineering Department, Bihar, ex officio.

(b) the Director of Public Health, Bihar, ex officio,

(c) five Councillors, other than the Chief Engineer of the Public Health Engineering Department and the Director, Public Health, Bihar, to be elected by the Corporation in the prescribed manner, and

(d) the Chairman of the Board, to be elected by the Corporation from amongst the Councillors in the prescribed manner.

(3) The Chief Executive Officer shall act as the Secretary to the Board and shall, subject to the provisions of this Chapter, mutatis, mutandis exercise the same powers and perform the same duties in relation to the Board as he exercises and performs in relation to the Standing Committee under the other chapter of this Act.

(4) The Board may, with the approval of the Corporation, entertain such separate staff as it thinks fit:

Provided that the Chief Executive Officer shall be the Chief Officer of the Board and all other officers and servants of the Board shall be subordinate to him.

(5) The provisions of chapter IV of this Act relating to the municipal officers and servants shall have effect in relation to the officers and servants of Board, subject to the modification that for any reference to the Standing Committee in those provisions, reference to the Board shall be deemed to be substituted.

7. From the above it is clear that Patna Water Board has been created under Sub-section (2) of Section 338 and the services of its employees are governed by same service rules which govern the services of the employees of the Patna Municipal Corporation. Thus, the case of the Petitioner is squarely covered by the aforesaid decision of this Court and, as such, he is also entitled for the same relief.

8. In the result the writ petition succeeds and is allowed. The order dated 15th June, 1993 of the Respondent No. 3, the Executive Officer, Patna Water Board, Patna is quashed and he is directed to consider the case of the Petitioner for grant of time-bound promotion in terms of the letter dated 18th January, 1992 of the Respondent No. 2 (Annexure 2 to the writ petition) within three months from the date of production of a certified copy of this order on him.

No order as to costs.