
(2012) 01 PAT CK 0150
In the Patna High Court
Case No : CWJC No. 8652 of 1998

Upendra Sharma

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 30-01-2012

Acts Referred:

Citation : (2012) 3 PLJR 675

Hon'ble Judges : Shivaji Pandey, J

Bench : Single Bench

Advocate : Yashwant Kumar Chaman for the State, Mr. Ranjit Sinha for the B.P.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Shivaji Pandey, J.—When the case was called out on 27th January, 2012, none from the side of petitioner was present, although counsel for the State and the Commission were present to represent their respective clients. Even today no one is present for the petitioner to press this petition. However, counsel for the State and the Commission are present.

2. In this case, petitioner has claimed that he should be treated in continuous service of the State Government as Assistant Engineer with effect from 27th June, 1987 which has wrongly been rejected and has also claimed that he should be treated as Assistant Engineer in the Department of Road Construction Department, in place or which he was allotted the Irrigation Department.

3. The facts of the case are that the petitioner was appointed on ad hoc basis vide Annexure-1 to the writ petition under the National Rural Employment Programme and was placed in the Road and Building Department. The letter of appointment was issued, awaiting the recommendation of the Public Service Commission. Later on the Public Service Commission recommended the name of petitioner alongwith other candidates and the petitioner was allotted the Irrigation Department. The petitioner was appointed to that post only subject to

the result of the writ petition vide CWJC No. 839 of 1987. Claim of the petitioner is that he was wrongly been allotted Irrigation Department, as he had worked in the Road Construction Department and, as such, he ought to have been allotted the aforesaid department and the period spent in the Road Construction Department be also taken into account. It will be relevant to mention here that vide Annexure-1, petitioner was given ad hoc appointment awaiting the recommendation of the Commission. It will be relevant to mention that the Road Construction Department was nodal Department and, as such, all the vacancies of Bihar Engineering Service, Class-II were on requisition sent by the said Department on the basis of marks obtained by the candidate, petitioner was allotted the Irrigation Department. The letter of appointment has been issued in the year 1988 and he has joined the service, it appears, without any delay and later on he has raised the dispute about his allotment.

4. It has been submitted on behalf of Commission and the State that at the earliest, the petitioner was given the ad hoc appointment and it cannot be the basis of his seniority from the date of ad hoc appointment. The seniority of the petitioner will be counted only from the date the petitioner was regularly appointed on the recommendation of the Commission.

5. Looking to the facts and circumstances of the case, I am of the view that the point raised by the State cannot be said to be without any basis. This writ petition is dismissed as one being devoid of merit and even on account of delay.