

**(2011) 02 PAT CK 0077**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 3433 of 2003

Vijay Chandra Thakur and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 11-02-2011

**Acts Referred:**

**Citation :** (2011) 59 BLJR 1017

**Hon'ble Judges :** Mridula Mishra, J

**Bench :** Single Bench

**Advocate :** R.N. Mukhopadhyaya, for the Appellant; M. Dhar Dwivedi, SC, for the Respondent

**Final Decision :** Allowed

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## **Judgement**

Mridula Mishra, J.—Heard counsel for the Petitioners and the counsel appearing for the State.

2. Petitioners have prayed for quashing of the orders contained in letters dated 18.11.2002 (Annexure-12 series) issued under the signature of Deputy Secretary, Department of Water Resources Department, Government of Bihar, Patna, reverting Petitioners from the post of Assistant Research Officer to the post of Research Assistants, after cancelling their regularization on the post of Assistant Research Officer vide order contained in Memo No. 5077 dated 21.5.1988(Annexure-6). Further prayer of the Petitioners is to reinstate their pay scale which has been reduced and to make payment of arrears of salary and restore their designation as well as pay scales on the post of Assistant Research Officers.

3. Petitioners were initially appointed on the post of Research Assistants in research cadre on 3.12.1974. Subsequently the post of Research Assistant of Research Cadre was re-designated as Assistant Research Officer vide order dated 9.9.1978. The Petitioners were regularized on the post of Research Assistant in the regular establishment vide order dated 21.5.1988. Petitioners were also

given time bound promotion on 25.9.1989. Final gradation list of Research Assistants re-designated as Assistants Research Officer was published vide memo No. 1197 dated 20.8.1998 for giving them promotion on the next higher posts of Research Officers in which the name of the Petitioners were left out. They represented for including their names in the gradation list and also to consider their claim for promotion on the post of Research Officers. Since it was not done, they filed CWJC No. 8189 of 1998 for a direction to the Respondents to consider their claim. The writ application was disposed of vide order dated 25.1.1999 directing the Respondents that in case sanctioned posts of Research Officer are still vacant, names of eligible candidates, including Petitioners be considered for promotion within a period of four weeks from the date of the passing of the order. Despite the order passed by the High Court, Petitioners claim were not considered by the authorities, instead vide letter dated 20.10.2001 a show cause notice was issued to the Petitioners and others like Kashi Nath Mishra, Ratan Kumar and Kumar Kant Lal, as to why they should not be reverted back to the post of Research Assistant..

4. Petitioners' grievance is that prior to the issuance of the show cause notice to the Petitioner the authorities completely overlooked that the Petitioners were directly appointed on the post of Research Assistant and not on the post of Junior Research Assistant. The post of Research Assistant was re-designated as Assistant Research Officer. They were never appointed as Junior Research Assistant/Silt Analyst, of which promotional post was Assistant Research Officer since, the post which was held by the Petitioners was Research Assistant post which was re-designated as Assistant Research Officer. There was no reason for issuing any notice to the Petitioners to show cause that why they should not be reverted back to the post of Research Assistant. However, Respondents cancelled Petitioners' regularization on the post of Assistant Research Officer and reverted them back to the post of Research Assistant by the impugned order.

5. Counsel appearing for the Petitioners submits that in the similar circumstance when the reversion order was passed in case of Kashi Nath Mishra, Kumar Kant Lal and Ratan Kumar, Kashi Nath Mishra challenged the order of reversion by filing CWJC No. 693 of 2003. In the writ application counter affidavit was filed by the State stating that even if the nomenclature of the post has been changed from the Assistant Research Officer to Research Assistant, the pay scale of the Petitioners will not be changed/reduced. Considering this the writ application was disposed of but subsequently his pay scale was also reduced, as such he filed CWJC No. 5088 of 2006, challenging the order, whereby his pay scale was lowered down with retrospective effect. Prior to the filing of the writ application by Kashi Nath Mishra, Kumar Kant Lal challenged the order of reversion as well as reduction of the pay scale, which was allowed. In the writ application filed by Kashi Nath Mishra both the orders of reversion as well as reduction of pay scale was quashed, Placing reliance on the order passed in the case of Kumar Kant Lal ( 2005 (3) PLJR 584. The order passed in Kumar Kant Lal was also affirmed by the Division bench in LPA No. 833 of 2006. The writ application filed by Kashi

Nath Mishra was allowed by order dated 29.6.2010.

6. Counsel for the Petitioners, in order to show that his case is identical to the case of Kashi Nath Mishra and Kumar Kant Lal, have annexed reversion orders passed in their case as well as the reversion order passed in the case of the Petitioners. On comparison of reversion orders of Kashi Nath Mishra and others as well as order of reversion passed in the case of the Petitioners, it is obvious that for same reasoning reversion orders have been issued. Language of all the orders are same, except the date of appointment of each person mentioned in the reversion order. Since the impugned orders passed in the case of Kashi Nath Mishra, Ratan Kumar as well as Kumar Kant Lal on the basis of same reasoning and on the same ground has been quashed and held to be illegal. There is no reason to differentiate the case of the Petitioners from the case of Kashi Nath Mishra, Ratan Kumar and Kumar Kant Lal. Petitioners and all those persons were initially appointed on the same post which was re-designated as Assistant Research Officer. They were allowed same benefits of regularization and all findings recorded in the case of these persons are applicable in the case of the present Petitioners.

7. Considering all these facts, I do not find any reason to hold that the case of these Petitioners in any way is different from the case of Kashi Nath Mishra and other two persons. In the facts and circumstances of the case, the impugned orders contained in letter dated 18.11.2002 (Annexure-12 series) are quashed. This writ application is also allowed giving direction to the Respondents to allow the Petitioners" all consequential benefits, for which they will be entitled on account of the quashing of the impugned orders. The Respondents will also consider the case of the Petitioners for promotion as has been given to other persons i.e. Kashi Nath Mishra, Ratan Kumar and Kumar Kant Lal. (Mridula Mishra,J.) Patna High Court Dated