

**Sunil Kumar and ors. Vs. State of Bihar and ors.**

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**Court :** Patna

**Decided On :** Apr-04-2005

**Judge :** Narayan Roy, J.

**Appeal No. :** C.W.J.C. No. 2467 of 2001

**Appellant :** Sunil Kumar and ors.

**Respondent :** State of Bihar and ors.

**Advocate for Def. :** JC to SC 8

**Advocate for Pet/Ap. :** S.N. Jha, Adv.

**Prior history :** Narayan Roy, J. 1. Heard counsel for the parties and considered the counter affidavit filed on behalf of the respondents. 2. The petitioners have prayed for direction upon the respondent authorities to confirm them on the posts of clerk with effect from the date of their initial appointment and to pay them all consequential monetary benefits. 3. It is submitted by learned counsel for the petitioners that the petitioners after due advertisement were appointed by the Joint Commissioner, Commerci

**Judgement :**

**Narayan Roy, J.**

1. Heard counsel for the parties and considered the counter affidavit filed on behalf of the respondents.

2. The petitioners have prayed for direction upon the respondent authorities to confirm them on the posts of clerk with effect from the date of their initial appointment and to pay them all consequential monetary benefits.

3. It is submitted by learned counsel for the petitioners that the petitioners after due advertisement were appointed by the Joint Commissioner, Commercial Taxes, on the posts of clerk-cum-typist in the year 1979. It is further submitted that the petitioners were appointed after obtaining the roster clearance etc. and since then they are continuing on the posts of clerk, but till date they have not been confirmed on the posts of clerk with effect from their initial date of appointment, as they are required to be confirmed within a period of three years from the date of their appointment.

4. It is also contended by Dr. Jha, learned counsel for the petitioners, that no departmental proceeding was initiated against the petitioners nor any action was taken and without any rhyme or reason they are not being confirmed, as a result of which they have been deprived of their consequential monetary benefits.

5. In the counter affidavit, it is merely stated that ;the matter is being enquired into as to the validity of the appointment of the petitioners and other similarly situated persons.

6. From the counter affidavit, it appears that the authorities are still in a fix to take a decision in the matter and at the same time, the petitioners are being allowed to work.

7. It is not in dispute that the petitioners are appointees of the year 1979 pursuant to the advertisement on the posts of clerk by the competent authority, i.e. Joint Commissioner, Commercial Taxes. Had it been a case that initial appointment of the petitioners was found to be not genuine, immediate action could have been taken and they could have been terminated by the earliest possible, but, on the contrary, it appears that the petitioners are continuing on the posts of clerk for

about 25 years.

8. Having regard to the facts and circumstances of the case, the concerned authorities are directed to consider the cases of the petitioners for their confirmation on the posts of clerk within a period of six weeks from the date of receipt/production of a copy of this order and in case they are confirmed on the posts of clerk, they would be paid the consequential monetary benefits forthwith.

With the observation/direction aforesaid, this application is disposed of.

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