

Ramjee Prasad Vs. State of Bihar and ors.

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Court : Patna

Decided On : Jan-14-2004

Judge : R.S. Garg and B.P.N. Singh, JJ.

Acts : Service Law

Appeal No. : CWJC No. 8008 of 2001

Appellant : Ramjee Prasad

Respondent : State of Bihar and ors.

Advocate for Def. : R.K. Dutta, S.C. IV

Advocate for Pet/Ap. : Subhro Sanyal, Adv.

Disposition : Petition dismissed

Prior history : 1. Heard learned counsel for the parties. 2. The petitioner posted as Sub-Judge, Muzaffarpur, being aggrieved by the order, dated 8th May, 2001, sent by the then Registrar General, High Court of Judicature at Patna, informing the petitioner that in view of the decision of the High Court he ceased to be member of Judicial Services of the State on completion of age of 58 years, has now come to this Court, inter alia, submitting that non-grant of extension is bad, the petitioner who was earlier

Judgement :

1. Heard learned counsel for the parties.

2. The petitioner posted as Sub-Judge, Muzaffarpur, being aggrieved by the order, dated 8th May, 2001, sent by the then Registrar General, High Court of Judicature at Patna, informing the petitioner that in view of the decision of the High Court he ceased to be member of Judicial Services of the State on completion of age of 58 years, has now come to this Court, inter alia, submitting that non-grant of extension is bad, the petitioner who was earlier held to be utile in law by proving his utility and as from the counter it would clearly appear that for the period between 1990-1991 up to the date of his superannuation he always earned a good and satisfactory remarks, the extension could not be refused. It is contended by the petitioner that the non-communicated entries of the service career have been taken into consideration to reject his claim and even otherwise there no material was available against the interest of the petitioner to give a weapon in the hands of the Evaluation Committee of the High Court to cut short his service career. Placing reliance upon a judgment of this Court in the matter of Shyam Deo Singh v. The State of Bihar and Ors., reported in 2001 (2) PLJR., 18, it is sought to be contended that the entries which were not communicated to the petitioner could not be taken into consideration and in any case the petitioner's case in view of the entries earned by him should have been favourably considered.

3. Contrary to the above, learned counsel for the High Court and the State submitted that the petitioner though was graded as good or satisfactory and not graded as bad or unsatisfactory after 1990 and was also given promotion as Sub Judge in the year 2001 but that would not mean that his earlier records could not be taken into consideration. Placing reliance upon the judgment of this Court in the matter of Satya Narayan Singh v. The State of Bihar and Ors., reported in 2003 (3) PLJR 837, it is contended that the High Court on the administrative side is obliged to consider that whether the officer should be continued in services whether the extension is to be granted on the available material or not. It is also submitted that certain compliant petitions were filed against the petitioner and certain enquiries were made, though the Inspecting Judge or the High Court observed that nothing further is required to be done but that would not mean that the petitioner was not prone to the complaints or the complaints had no bearing in the character and the

conduct of the petitioner. It is also submitted that the grant of extension cannot be claimed as of a right because it is a benefit conferred upon the officer after his due assessment in the light of the judgment of the Supreme Court. According to the respondents, the petitioner's career had not been par excellence and, therefore, non-grant of the extension is absolutely justified.

4. The record shows that the petitioner joined the Bihar Judicial Services as Munsif on 04.06.1975, was confirmed on the said post on 01.09.1980 and was promoted to the rank of Sub Judge on 06.12.1996. It goes without saying that grant of promotion and allowing a person to continue up to the date of superannuation would stand on a different footing and extension of the services for next two years will have to be considered seriously and would, therefore, depend upon different considerations. According to the respondents and it is also clear from the records that since 1975-1976 to 1989-1990, the petitioner could not earn good remarks in his favour. In 1978-1979 adverse remarks were recorded against him for lack of control over his staff. In the year 1988-1989 the CR indicates that some complaints were received against his impartiality but later on enquiry he was given a clean chit. In the year 1989-1990 he was found to be not industrious and prompt in disposal of the cases and his out-turn was found to be not satisfactory. According to the respondents, the CR recorded after 1989-1990 reveal that the petitioner earned good and satisfactory remarks from his District Judges. But that in itself would not be sufficient, in our considered opinion, to enable him to seek extension. An officer who satisfactorily works cannot always say that he is a good officer otherwise also a Judicial Officer is supposed to be good law knowing and honest. Even a good officer who some times lack particular things may not be considered to be a good officer for the purposes of extension.

5. It would appear that in the year 1984 the petitioner was accorded 'B' average remark, in March, 1986, he was graded as 'B' average, an average officer. It would also appear from the records that in the year 1987 he was graded as below average and was advised to write clear orders with clear expression, his judgments and orders were found to be below average, he was required to improve the quality of judgment. He was accorded 'C' which was below average. Total assessment was graded 'B'/average. In the year 1993, undisputedly he was

remarked as a good Judicial Officer.

6. It would again appear from the records that in the year 1994 complaint was received against him, an enquiry was made and the Chief Justice directed that no further action was called for. In the year 1996 again in a matter relating to a complaint of 1990 the Chief Justice observed that no further action was deemed necessary. In relation to the complaint, dated 22.05.1995, an enquiry was made and lastly it was observed that no action was required to be taken and the allegation petition was ordered to be filed. Learned counsel for the respondents submits that in a given case on the face of the material a superior officer may observe that no further action is necessary but that does not mean that the action taken against the officer stands washed off. It is also to be seen from the judgment in the matter of *Bishwanath Prasad Singh v. The State of Bihar and Ors.*, reported in (2001) 2 SCC 305, that grant of promotion in itself would not be a sole criterion to decide the question of extension. According to the learned counsel, within one and half months of the promotion a person can be refused extension.

7. On the question of filing of the complaints or closing of the enquiries, we are of the considered opinion that the learned counsel for the respondents State/High Court is justified in saying that in a given case the superior officer/High Court/Chief Justice may not proceed further in the matter but the material can well be looked into while considering the case of grant of extension.

8. In the matter of *Shyamdeo Singh (supra)*, this Court had observed that the Apex Court did not hold that while considering the potentiality the settled laws would not apply and are to be ignored. The High Court observed that in its opinion there cannot be even an iota of doubt that the laws settled by the Apex Court are to be followed and applied in all cases wherever it is relevant. We do not dispute this proposition. The question is that if the Supreme Court in catena of the cases have already observed that communicated and non-communicated entries can be taken into consideration while considering the case of grant of extension then whether the common law observation that non-communicated entries shall not be taken into consideration would be applicable. The judgment in the matter of *Shyamdeo Singh* was critically examined in the matter of *Satya Narain Singh (supra)* and this

Court has observed in paragraph 39 that while considering the case for extension the over all performance during the entire service career has to be seen, 'communicated or uncommunicated entries can be taken into consideration the small lapses, big mistakes or blunders all are to be judged in their true perspective.' True it is that the petitioner did not earn any bad or adverse entries since after 1990 but that does not entitle him to extension.

9. The question will have to be examined critically by the Evaluation Committee and if the Evaluation Committee on appraisal of the total material available before it comes to a conclusion that the officer does not deserve extension then unless the materials are asserted or ulterior motives are attributed against the Evaluation Committee it would not be possible for the High Court on the judicial side to reappraise the evidence or records. After all the administrative agency of the High Court does not consist of the ordinary Clerks or the Registrar, it consists of the seven senior most judges of this Court, who are not only experienced but also know about the law, about the understanding and career records of the Subordinate judges and also their utility.

10. Taking into consideration the totality of the circumstances and the available records of the petitioner, we do not think that the petitioner could make out a case for any interference.

The petition is dismissed. No order as to costs.

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