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Court : Patna

Decided On : Nov-24-2004

Judge : Narayan Roy, J.

Acts : Bihar Service Code - Rule 58; Bihar Finance Rules - Rule 74

Appeal No. : CWJC No. 2761 of 2004

Appellant : Pachkauri Ram

Respondent : State of Bihar and ors.

Advocate for Def. : JC to GP-7

Advocate for Pet/Ap. : Dudh Nath Singh, Adv.

Disposition : Application allowed

Judgement :

Narayan Roy, J.

1. Heard counsel for the parties.

2. The petitioner seeks direction upon the respondents to make payment of consequential benefits on account of his promotion with effect from 11.4.1989 to July 1994.

3. It is submitted by learned counsel for the petitioner that the petitioner was given out of turn promotion on the post of Inspector of Police on account of award of police medal for his gallantry deeds, but the authorities are not paying the pecuniary benefits on account of promotion with effect from the date of notification dated 11.4.1989, It is further submitted that after July 1994 the petitioner is getting promotional benefits, though he is entitled for the same with effect from 11.4.1989 itself. It is also submitted that one similarly situated police officer, namely, Ram Subhag Singh, who was also given out of turn promotion, was given consequential benefits from the date of promotion itself.

4. A counter affidavit has been filed on behalf of the respondents stating therein that in view of Rule 58 of the Bihar Service Code read with Rule 74 of the Bihar Finance Rules, the petitioner would be entitled for consequential benefits from the date he assumed charge in the office.

5. So far grant of monetary benefit to Ram Subhag Singh aforesaid is concerned, this fact is not denied in the counter-affidavit. Implication of Rule 58 of the Bihar Service Code read with Rule 74 of the Bihar Finance Rules has already been interpreted by this Court in several judgments, wherein it has been held that a Government servant would be entitled for consequential benefits from the date of promotion itself.

6. In this connection, reference may be made to the case of Md. Hafiz v. State of Bihar and Ors., 2003 (2) Patna Law Journal Reports 44.

7. In the case at hand, it appears that the case of the petitioner has been discriminated, inasmuch as that one Ram Subhag Singh, similarly situated, was given all consequential benefits on account of promotion with effect from the date of promotion itself.

8. The action of the State authorities, in that view of the matter, in not extending the same benefits to the petitioner is most arbitrary and unreasonable.

9. For the reasons aforementioned, this application is allowed and the respondent authorities are directed to pay the consequential monetary benefits to the

petitioner with due date of his promotion, i.e., from 11.4.1989 till the date he was not paid, within a period of three months from the date of receipt/production of a copy of this order.

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