

Mitku Ram Vs. State of Bihar and ors.

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Court : Jharkhand

Decided On : Mar-04-2004

Reported in : [2004(2)JCR239(Jhr)]

Judge : Amareshwar Sahay, J.

Acts : Service Law; [Constitution of India](#) - Article 226

Appeal No. : C.W.J.C. No. 2859 of 1997 (R)

Appellant : Mitku Ram

Respondent : State of Bihar and ors.

Advocate for Def. : R.R. Mishra, G.P. 2 and; Manoj Kumar, J.C. to G.P. 2

Advocate for Pet/Ap. : R. Krishna, Adv.

Judgement :

Amareshwar Sahay, J.

1. The prayer of the petitioner in this writ application is for quashing the order as contained in Annexure 15 dated 20.9.1997 passed by the respondent No, 2, Principle-Chief-Conservator of Forest, Bihar, Doranda, Ranchi whereby the promotion given to the petitioner to the post of Junior Selection Grade and Senior Selection Grade on 20.2.1985 and 18.4.1988 has been cancelled without any

notice to show cause with direction for recovery of the excess amount paid to him due to the aforesaid promotion was given to him.

2. The case of the petitioner is that the petitioner was initially working as van driver in the Forest Department in the scale of 1320-2040/- in Senior Selection Grade right from 1.4.1988.

3. Mr. R. Krishna learned counsel for the petitioner submitted that since the petitioner has already retired from service on 31.3.2003 and therefore, he is confining his prayer only with regard to that part of the order as contained in Annexure 15 wherein it has been directed to realise the amount which, according to the respondents, has been paid to the petitioner in excess due to the promotion to Junior Selection Grade and Senior Selection Grade which were wrongly given to him.

4. It is not in dispute that the promotion to the post of Junior Selection Grade and Senior Selection Grade was given to the petitioner on 28.2.1985 and 18.4.1988 and the petitioner availed the benefit of the said promotion till the impugned order was passed in the year 1997.

5. It is not the case of the respondents that promotion to Junior Selection Grade and Senior Selection Grade was granted to the petitioner either on his misrepresentation or by committing any fraud by him in any manner.

6. It is settled law that unless it is established that the promotional monetary benefits availed was consequent to misrepresentation or fraud no order for recovery of the same can be passed.

7. Accordingly this application is partly allowed and the second part of the order as contained in Annexure 15 regarding realisation of the amount said to have been paid in excess to the petitioner is hereby quashed.