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**(2007) 07 PAT CK 0177**

**Patna High Court**

**Case No:** CWJC No. 12742 of 2001

Om Prakash

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

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**Date of Decision:** July 13, 2007

**Citation:** (2007) PLJR 278

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

**Bench:** Single Bench

**Final Decision:** Allowed

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### **Judgement**

@JUDGMENTTAG-ORDER

Mridula Mishra, J.

Heard counsel for the petitioner and the State. Very short question is for consideration before this Court, i.e. to fix the date of promotion of the petitioner on the post of Joint Director Training in terms of the recommendation of Departmental Promotion Committee held on 26.12.1997. Petitioner's entitlement for promotion is not in dispute. The Departmental Promotion Committee in its meeting dated 26.12.1997 has recommended for petitioner's promotion to the post of Joint Director Training but the date of promotion was left to the department and the government.

2. Petitioner's claim is that he completed four years of Kalawadhi for promotion on the post of Joint Director Training on 1.3.1993. On that date there was no vacancy in the post but the post became vacant on 5.4.1994 on account of the demise of immediate Senior Officer S.K. Verma. The petitioner became eligible for promotion from 6.4.1994. The department also by its letter No. 2465 dated 16.6.1996 addressed to Bihar Public Service Commission stated about the promotion of the petitioner to the post with effect from 6.4.1994. In spite of this fact vide notification dated 14.7.1999 petitioner has been granted promotion to the post of Joint Director Training with effect from the date of issuance of the notice dated 14.7.1994

Ed.--(sic--1999?)

3. Counter affidavit which has been filed by the respondents there also it has been admitted that the post became vacant with effect from 6.4.1994. On that date there was no departmental proceeding or criminal proceeding pending against the petitioner. Subsequently in the year 1999 a departmental proceeding was initiated in which also the petitioner was exonerated of the charges. A departmental proceeding was subsequently initiated u/s 43 of the Pension Rules in which he was punished for deduction of 25% of pension which order has been challenged by the petitioner in CWJC No. 11235 of 2003 and the operation of the order has been stayed by order dated 29.6.2004. Considering all these facts I do not find any reason that the petitioner should not be given promotion with effect from 6.4.1994 i.e. the date when the post became vacant and there was entitlement of the petitioner for giving promotion to the post of Joint Director Training. Accordingly this application is allowed. The notification No. 206 dated 14.7.1999 whereby the petitioner was given promotion to the post of Deputy Director Training is quashed. The respondents are directed to issue fresh notification in favour of the petitioner granting promotion to the petitioner with effect from 6.4.1994 and the arrears of salary should be paid to the petitioner from the date of his promotion i.e. 6.4.1994.