

Om Prakash Vs State of Bihar and Others

Court: Patna High Court

Date of Decision: July 13, 2007

Citation: (2007) PLJR 278

Hon'ble Judges: Mridula Mishra, J

Bench: Single Bench

Final Decision: Allowed

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.