

आदेश की
क्रम संख्या
और तारीख

आदेश और पदाधिकारी का हस्ताक्षर

आदेश पर की
गई कार्रवाई में
टिप्पणी तारीख
के साथ

Court of the District Magistrate,
Saran at Chhapra

Vishnu Shanker Ojha
Vrs.
Govt. of Bihar

Miscellaneous Case No. 01/2007
(Service Matter)

ORDER

21/8/2012

This case was initiated on the basis of the order passed by the Divisional Commissioner, Saran, in Service Appeal No. 1042/2006 Vishnu Shanker Ojha Vrs. State of Bihar, on 16/12/2006.

The case, in brief, is that the petitioner Vishnu Shanker Ojha challenged the Seniority List published in 2002, before the Divisional Commissioner alleging that the publication of the Seniority List was carried out without affording him any opportunity to file his claim and/or objection, and the said list ignored the fact that he was an Upper Division Clerk and his seniority must accordingly have been ensured keeping in view the original hierarchy of promotion.

The Establishment Deputy Collector has countered these principal allegations by submitting a pointwise report dated 06.02.2007 accompanied with various Government Circulars as well as the minutes of proceedings of the District Establishment Committee.

The Establishment Deputy Collector states that the petitioner has deliberately concealed the fact that he had indeed filed his claims after the publication of the draft Seniority List. As a result, his date of promotion was corrected from 12.08.1974 to 01.04.1974 and entries regarding his date of appointment and date of confirmation were inserted. The second contention of the Establishment Deputy Collector is that petitioner is claiming his seniority by ignoring the major changes effected by the State Govt. in the clerical cadre (i) by merging cadres of the Lower and Upper Division Clerks and bringing them to basic grade from 01.01.1996, (ii) by providing for creation of need based promotional posts, and (iii) by abolishing the erstwhile provisions of time-bound promotion.

Heard the parties and perused the original records. It is quite evident from the records that the allegation of the petitioner that he was not afforded any opportunity to file his claim and objection is patently false. He not only filed his claim



but the same was also accepted by the Establishment Deputy Committee.

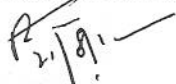
So far as the merit of his claiming seniority on the basis of his being an Upper Division Clerk and his having availed of one time-bound promotion is concerned, the argument is misleading and inconsistent with the govt. decision taken with regard to the merger of the cadres of Upper Division Clerk and Lower Division Clerks and abolition of time-bound promotion. The petitioner cannot insist on provisions no longer in force. The simple fact is that the Seniority List was prepared after incorporating the said new rules and the petitioner has failed to point out the example of even a single person who was his junior but placed at a senior position in the impugned Seniority List.


The petitioner retired in 1999 but the new rules had come into force on 01.01.1996. He cannot harp on provisions subsequently changed.

In the end, I am convinced that no injustice or was discrimination committed against the petitioner and the Seniority List published in the year 2002 does not suffer from any legal infirmity so far as the case of the petitioner is concerned.

Accordingly, the petition is dismissed. Let a copy of this order be sent to Establishment Deputy Collector, Saran, Chapra.

Dictated and corrected


(Vinay Kumar)
District Magistrate
Saran, Chapra


(Vinay Kumar)
District Magistrate
Saran, Chapra


Memo No. 2185 Date 30.8.12

Copy forwarded to Establishment Deputy Collector, District Establishment Section, Chapra, Saran for information and necessary actions please.

Enclosure - File No. -
02-81/2006

Sri Bishnu Shankar Jha

ofc


Sr. Deputy Collector,
District Legal Section,
Saran, Chapra
28/8/12