

IN THE HIGH COURT OF JUDICATURE AT PATNA
LPA No.932 of 2010

1. THE STATE OF BIHAR.
2. THE COMMISSIONER-CUM-SECRETARY, FINANCE DEPARTMENT, GOVERNMENT OF BIHAR, PATNA.
3. THE JOINT COMMISSIONER, ACCOUNTS ADMINISTRATION-CUM-DIRECTOR, PROVIDENT FUND DIRECTORATE, FINANCE DEPARTMENT, BIHAR AT PANT BHAWAN, PATNA.
4. THE DY. DIRECTOR, PROVIDENT FUND DIRECTORATE, BIHAR, PATNA.
5. THE DISTRICT PROVIDENT FUND OFFICER, WEST CHAMPARAN, BETTIAH.
6. THE DISTRICT TREASURY OFFICER, WEST CHAMPARAN, BETTIAH.
7. THE DISTRICT ACCOUNTS OFFICER, WEST CHAMPARAN, BETTIAH.
8. THE SECRETARY/COMMISSIONER, MINOR IRRIGATION DEPARTMENT, VIKASH BHAWAN, BIHAR, PATNA.
9. THE DY. SECRETARY, MINOR IRRIGATION DEPARTMENT, BIHAR, PATNA.
10. THE PROJECT COORDINATOR, TUBE WELL PROJECT, BISHVESHARIYA, BHAWAN, BIHAR, PATNA.
11. THE CHIEF ENGINEER (NORTH), TUBE WELL PROJECT, MUZAFFARPUR.
12. THE SUPERINTENDING ENGINEER, TUBE WELL CIRCLE, DAMUCHAK ROAD, MUZAFFARPUR.

...(Respondents No.1 to 12)...Appellants.

Versus

1. CHHEDI PRASAD SINHA, SON OF LATE SURYADEO LAL, RESIDENT OF VILLAGE-LAKHANPUR, P.S. LAURIYA, DISTRICT-WEST CHAMPARAN AT PRESENT RESIDING IN THE MOHALLA CHANDMANI, P.O. MOTIHARI, P.S.-MOTIHARI TOWN, DISTRICT- EAST CHAMPARAN.

....(Petitioner)....Respondent 1st Party.

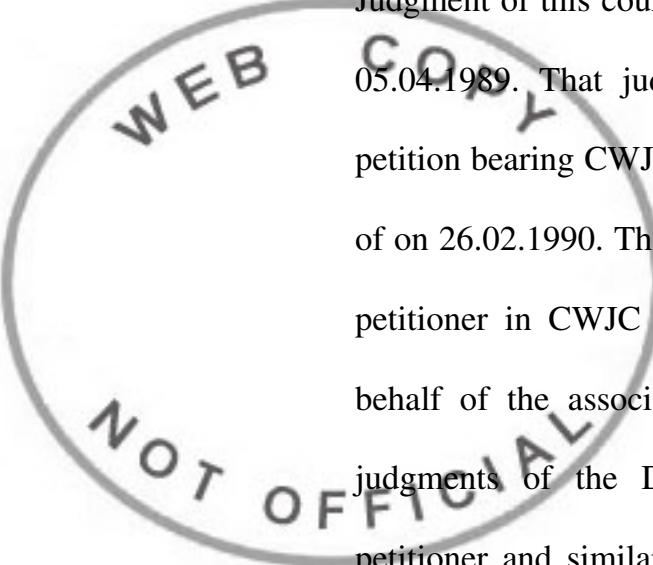
2. THE MANAGING DIRECTOR, BIHAR WATER DEVELOPMENT CORPORATION, DAROGA PRASAD RAI PATH, SRI KRISHNAPURI, PATNA.
....(Respondent No.13)....Respondent 2nd party.
3. The Accountant General, Bihar, Patna.
....(Respondent No.14)....Respondent 3rd party.

Counsel for the Appellants : Mr. Anil Kumar Jha,
G.A. No.2.

Counsel for the respondents : Mr. S.P. Srivastava.

5 30.9.2010 Heard learned counsel for the appellants and learned counsel for the respondents.

We were taken through the Division Bench Judgment of this court in CWJC No.6298 of 1988 passed on 05.04.1989. That judgment was followed in another writ petition bearing CWJC No.5826 of 1988 which was disposed of on 26.02.1990. The writ petitioner has claimed to be a co-petitioner in CWJC No.5826 of 1988 which was filed on behalf of the association. The issue settled by those two judgments of the Division Bench is to the effect that petitioner and similarly situated employees continued to be employees of the Minor Irrigation Department and were rightly granted time bound promotion by the said Department. Cancellation of time bound promotions through orders dated 7.6.1988 and 5.8.1988 on the ground that petitioner and similarly situated employees had become



employees of the Finance Department was not accepted by the Division Bench till the year 1989-90.

The State accepted those decisions and thereafter there is no further material to hold that the position changed making the writ petitioner employee of the Finance Department.

Learned writ Court has considered all the relevant facts and has rightly relied upon the aforesaid two judgments of the Division Bench to hold that the writ petitioner being a permanent employee of the Minor Irrigation Department was entitled and was rightly paid the scale of head clerk of the said Department. On that account a direction has been given for re-fixation of the retiral benefits of the petitioner within a fixed period.

We find no good reason to interfere with the order of the writ court. This appeal is, therefore, dismissed.

No cost.

(Shiva Kirti Singh, J.)

(Hemant Kumar Srivastava, J.)

sk/pn