

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7203 OF 2008

CHATURBHUJ LAL

... APPELLANT(S)

VS.

BIHAR STATE POLLUTION CONTROL BOARD & ORS.... RESPONDENT(S)

O R D E R

1. Heard learned counsel for the parties.,
2. The backdrop of fact is that the appellant had been appointed in the year 1976. However, he had obtained qualification of matriculation in the year 1982. He was promoted to the post of routine clerk in 1984, whereas, Respondent No.7, namely, Shyam Sunder Prasad Sinha, had been initially appointed on ad-hoc basis in the year 1980 and later on he was regularised, when he had been appointed he possessed qualification. However, the promotion of both the appellant as well as Respondent No.7, came to be considered in 1984, when they both had requisite qualification for promotion. Obviously the appellant was senior, as rightly held by the learned Single Judge while dismissing the writ petition filed by Respondent No.7. The Division Bench of the High Court

reversed the order of the Single Judge, without considering the aforesaid aspect and it has erred in law in treating the date of appointment for adjudging qualification for promotion, as that was not material and the relevant date was the date of promotion in 1984. As on the date of promotion, admittedly, both had the requisite qualification, the appellant was senior to Respondent No.7 as such. The Single Judge had rightly dismissed the petition filed by Respondent No.7.

3. Thus, we set aside the impugned order passed by the Division Bench and restore that of the Single Judge. However, the benefits which would have been obtained by the appellant shall be paid to him, along with other consequential benefits within four months. However, in the facts of the case, no recovery shall be made from Respondent No.7, as it is stated that he has already retired.

2. Accordingly, the civil appeal is allowed. Pending application, if any, shall stand disposed of.

.....J.
[ARUN MISHRA]

.....J.
[AMITAVA ROY]

New Delhi;
8th February, 2018.

ITEM NO.102

COURT NO.10

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).7203/2008

CHATURBHUJ LAL

Appellant(s)

VERSUS

BIHAR STATE POLLUTION CONTROL BOARD & ORS.

Respondent(s)

Date : 08-02-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE AMITAVA ROY

For Appellant(s) Mr. Ajit Kr. Sinha, Sr. Adv.
 Mr. Ambhoj Kumar Sinha, AOR
 Ms. Mohini Priya, Adv.

For Respondent(s) Mr. Rudreshwar Singh, Adv.
No.7 Mr. Sanjay Jain, AOR

State of Jharkhand Mr. Gopal Prasad, AOR

State of Bihar Mr. Gopal Singh, AOR
 Mr. Shivam Singh, Adv.

Ms. Isha Singh, Adv.
For Mr. Kaushik Poddar, AOR

Ms. Kamakshi S. Mehlwal, AOR
Mr. Alok Kumar, AOR
Mr. Manish Kumar Saran, AOR

UPON hearing the counsel the Court made the following
O R D E R

The civil appeal is allowed in terms of the signed order.

(Sarita Purohit)
Court master

(Jagdish Chander)
Branch Officer

(Signed order is placed on the file)