

ITEM NO.1501

COURT NO.9

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. 6977/2015

BIHAR STATE ELECTRICITY BOARD AND OTHERS

APPELLANTS

VERSUS

DHARAMDEO DAS

RESPONDENT

[HEARD BY : HON. HIMA KOHLI AND HON. AHSANUDDIN AMANULLAH, JJ.]

Date : 23-07-2024 This appeal was called on for pronouncement of judgment today.

For Appellant(s)

Mr. Navin Prakash, AOR

For Respondent(s)

Mr. Amit Pawan, AOR

1. Hon'ble Ms. Justice Hima Kohli pronounced the judgment of the Bench comprising Her Ladyship and Hon'ble Mr. Justice Ahsanuddin Amanullah.
2. The appeal succeeds in terms of the signed reportable judgment. The operative part of the judgment reads as follows:

"30. Given the above legal position, in our view, the Division Bench of the High Court ought to have refrained from interfering with the findings returned by the learned Single Judge who has rightly held that merely because the respondent had completed the *Kal Awadhi* for promotion from the post of Under Secretary to Joint Secretary, would not necessarily entitle him for appointment from the date the post fell vacant. This is not a case where the respondent has been deprived of promotion to

the next higher post, nor is it a case where the action of the Board was guided by any *malafides* or colourable exercise of power. As noted above, the action of the Board was purely guided by administrative exigencies. The Resolution of the Board dated 26th December, 1991 for fixing the *Kal Awadhi* was only directory in nature and cannot be treated as statutory for the respondent to have claimed an entitlement to promotion reckoned from 29th July, 1997, instead of 5th March, 2003. Such a view is in consonance with the settled legal position and cannot be faulted.

31. Accordingly, the present appeal succeeds. For the reasons stated aforesaid, the impugned order dated 20th October 2011 is set aside and the order dated 3rd October, 2007 passed by the learned Single Judge is restored. Parties are left to bear their own expenses.”

(POOJA SHARMA)
COURT MASTER (SH)

(Signed reportable judgment is placed on the file.)

(NAND KISHOR)
COURT MASTER (NSH)