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IN THE HIGH COURT OF JUDICATURE AT PATNA
CWJC No.1241 of 2000
LALAN SINGH
Versus
THE STATE OF BIHAR & ORS

8/ 12/8/2008.

Heard learned counsel for the petitioner, for the State as also learned counsel for the Bihar Public Service Commission.

The relief prayed for in this writ application is for promotion to the post of Labour Superintendent, the next promotional avenue from the Labour Inspector. The gradation list of Labour Inspectors was drawn up on 23.3.1990. The petitioner does not make an issue of the same to submit that he is entitled to be promoted in accordance therewith. From the supplementary counter affidavit filed on behalf of the respondent State it appears that by Rule-6 of the Labour Service (General) Rule, 1969, 50% posts of Labour Superintendents are to be filled up by promotion from the post of Labour Inspectors. The supplementary counter affidavit acknowledges the eligibility of the petitioner for consideration and that the Departmental Promotion Committee on 4.1.2000 after considering his case recommended the same

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to the Bihar Public Service Commission. It, however, then contends that the name of the petitioner was not approved and recommended by the B.P.S.C. because he superannuated in the meantime on 31.1.2000.

The counter affidavit filed on behalf of the Commission states that the proposal sent with regard to the petitioner was incomplete and, therefore, the Commission was not in a position to make any recommendation till all relevant information was made available to it.

On facts, the eligibility of the petitioner is not in dispute. That he was recommended is also not in dispute. For the fault of the State respondents, the petitioner cannot be allowed to suffer. No that he has superannuated on 31.1.2000, the question of granting him actual benefits of the post of Labour Superintendent does not arise since he never worked on the post. However, this Court considers it proper to direct that in pursuance of the recommendation of the D.P.C. dated 4.1.2000, which could not fructify by reason of an incomplete proposal sent to the Commission, the petitioner shall be entitled to notional

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promotion on the post of Labour Superintendent with effect from the aforesaid date and his pensionary benefits shall be revised accordingly deeming that he retired on 31.1.2000 from the post of Labour Superintendent.

Let such consequential monetary benefits upon revision of his pensionary dues be made available to the petitioner within a maximum period of three months from the date of receipt/production of a copy of this order.

The writ application stands **allowed** to the extent indicated.

KC

(Navin Sinha, J)

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