



2025 INSC 1138

Non-Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No. _____ of 2025
(@ Special Leave Petition (Civil) No.15932 of 2024)**

Jyotshna Singh

...Appellant

Versus

State of Jharkhand & Ors.

...Respondents

J U D G M E N T

K. VINOD CHANDRAN, J.

Leave granted.

2. The appeal arises from an order in a contempt case wherein the Division Bench refused to entertain the petition, finding that in the context of the prayers made before the writ court, the submission that the retrospective promotion directed in the LPA should relate back to the date on which the appellant's immediate junior was promoted, was clearly unfair. The order in the LPA from which the contempt petition

arose, issued a mandamus categorically directing consideration of consequential benefits of writ petitioner including consideration of her case for promotion with retrospective effect, after setting aside the disciplinary proceedings initiated with a delay of about 10 years, which proceeding was also conducted in total violation of the principles governing departmental proceedings.

3. We are of the view that the Division Bench egregiously erred in rejecting the contempt petition. Considering the long pendency as also the fact that the appellant is now retired, we were inclined to consider the merits of the claim made before the contempt court, for which a brief reference to the background facts is absolutely necessary.

4. The appellant was working as a BDO in the Jharkhand State Administrative Service and while posted at Chandwa Block noticed improper entries in the cash book for which proceedings were taken against the Nazir of the Block, twice, and it was also reported to the Deputy Commissioner. On her transfer, she properly handed over charge to her successor

and entrusted the cash book with the correct entries. Later, the Audit Team of the office of the Accountant General conducting an audit raised an objection with respect to an excess payment of Rs.5,60,000/- pointing out that it could be a misappropriation. Based on the objection raised the Deputy Commissioner, Latehar looked into the matter and categorically found that there was no reason to find embezzlement and the money expended was within the estimated cost. The State Audit Team accepted the said report on 17.07.2009. The appellant uninterruptedly continued in service and was also given due promotions.

5. Much later, on 25.05.2017, a charge-sheet was issued by the Deputy Commissioner, Latehar relating to the embezzlement pointed out as an objection by the Audit Team of the office of the Accountant General. An order was also passed imposing the punishment of withholding three increments with effect from 15.10.2019. The appellant challenged the same before the High Court in which it was found that the allegation in the charge-sheet regarding

interpolations in the cash book was properly explained by the appellant. It was also observed that the State led no evidence in the departmental enquiry to prove the charge and the enquiry officer merely relied on some documents produced which were not marked or proved. Relying on ***Roop Singh Negi v. Punjab National Bank and Others***¹ the departmental proceedings were set aside in toto. Reliance was also placed on ***State of Madhya Pradesh v. Bani Singh and Another***² to further fault the State for having initiated proceedings after a lapse of about 10 years. The alleged objection of the Audit Team was raised on 27.07.2007, which was properly explained and verified to be not a defalcation, while the departmental proceedings on the same issue was initiated on 25.05.2017. The Division Bench, according to us rightly set aside the entire departmental proceedings including the penalty imposed and directed consideration of

¹ (2009) 2 SCC 570

² 1990 (Supp.) SCC 738

her promotion with retrospective effect and all consequential benefits.

6. Before us learned counsel for the appellant specifically pointed out the seniority list as produced at Annexure P1 indicates the appellant at serial no.733. The claim of the appellant is that the appellant ought to have been promoted to the post of Joint Secretary on the date on which her immediate junior at serial no.734, Mrs. Uma Mahato was promoted. As per Annexure P7 order passed purportedly in compliance of Division Bench order in the LPA, the appellant has been promoted to the post of Joint Secretary only on 30.11.2022 and the financial benefits and other facilities in the promoted post granted only from the date of assumption of charge. As indicated in Annexure P1-seniority list, the appellant's retirement date is 31.12.2023 and the order has come on 27.02.2024. The learned counsel for the State of Jharkhand read to us Annexure P7 order in an attempt to uphold the promotion granted with effect from 2022 while

admitting that the appellant's immediate junior Mrs. Uma Mahato was promoted on 13.03.2020.

7. The contention of the State is that the appellant was promoted to the post of Additional Collector only on 19.05.2015 and the rules required a minimum of 5 years' service for promotion to the next post of Joint Secretary. The Departmental Promotion Committee (DPC) was held on 13.03.2020 when the appellant was under the rigor of punishment imposed in departmental proceedings. Relaxation in the stipulated period of service, according to the departmental resolution, which is read in the order, can be made applicable only to an officer who is not responsible for the delay in promotion or the main reason for not getting promotion is the delay in departmental proceedings, none of which is applicable in the case of appellant who had been imposed with punishment as on the date of DPC; which clearly makes her ineligible for relaxation of the minimum required period of service for considering her for promotion.

8. Admittedly, Mrs. Uma Mahato, junior of the appellant was considered on 13.03.2020, obviously after granting relaxation. Even according to the State, the denial of consideration of the appellant was only on account of the punishment imposed. The punishment imposed together with the entire departmental proceedings have been set aside for reason of the proceedings itself being a sham proceeding and also for the reason of long delay in initiation of the proceeding with respect to an allegation of about 10 years in the past.

9. The punishment has been set aside and the departmental proceeding found to be in violation of established principles. Consequential benefits including retrospective promotion was directed. The appellant should be considered for promotion from the date on which her immediate junior, Mrs. Uma Mahato was considered in the DPC. Since there is no other allegation against the appellant in strict compliance /directions issued by the Division Bench in LPA No.467 of 2022, the State ought to have promoted the

appellant to the post of Joint Secretary, on the date on which her immediate junior, Mrs. Uma Mahato was promoted; giving her relaxation in the minimum experience for consideration for promotion as has been done in the case of Mrs. Uma Mahato.

10. The appellant is also entitled to consequential benefits as directed in LPA No.467 of 2022 which includes the entire pay and allowances and also, in the event of the appellant having retired, fixation of pension as per the last pay drawn on the retrospective promotion granted. Appropriate orders shall be passed by the respondents, and the appellant shall be paid the entire arrears of pay and allowances as a Joint Secretary right from the date on which her immediate junior, Mrs. Uma Mahato was promoted and her pension shall be refixed and arrears paid accordingly, if she has retired.

11. The above exercise shall be completed within a period of four months and the entire amounts due shall be paid to the appellant within the stipulated time, along with the written computation of the financial facilities granted on such

retrospective promotion. There shall be no interest claimed by the appellant if the amounts are paid within the stipulated time and if the State fails to carry out the directions in this judgment, the appellant shall be entitled to 7% interest on the arrears computed, from today and if the failure to comply with the directions in this judgment is by any officer/s of the State, the State shall be free to recover the additional liability of interest from such officers/employees occasioning the delay after issuing notice and taking appropriate proceedings against the said officers/employees.

12. The appeal stands allowed with the above directions.

13. Pending application(s), if any, shall stand disposed of.

..... **CJI.**
(B.R. GAVAI)

..... **J.**
(K. VINOD CHANDRAN)

NEW DELHI;
SEPTEMBER 22, 2025.