

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8708 OF 2017
(Arising out of SLP (C) No. 22850 of 2012)

BASUDEO PRASAD APPELLANT(S)

VERSUS

THE STATE OF BIHAR & ORS. . . . RESPONDENT(S)

O R D E R

Leave granted.

2. The Appellant who was working as a Head Clerk in the office of Joint Director cum Controller, Weights and Measures, Bihar filed a Writ Petition in the High Court seeking a direction to the Respondents to promote him as Inspector, Weights and Measures with all consequential benefits. The Appellant contended that he is a matriculate and he completed 10 years of service. He also passed the requisite departmental examination under the Rules.

3. The Appellant was denied promotion on the ground that he is not a graduate. The Appellant

contended in the Writ Petition that Rule 20, which is reproduced below, exempts a person eligible for promotion as Inspector from the requirement of possessing Graduation in Science. Rule 20 of Bihar Standards of Weights and Measures (Enforcement) Rules, 1988 reads as follows:

"20. Qualification of Inspectors - (1) No person shall be appointed as Inspector unless he -

(a) Is a graduate of a recognised university in Science (with physics as one of the subjects), technology or engineering, or holds a recognised diploma in engineering; and

(b) Is able to speak, read and write at least one of the regional language of the State.

(2) Nothing in sub-rule (1) shall apply to persons who have been working as Inspectors or are eligible for promotion as Inspectors before the commencement of these Rules.

(3) The person appointed to the post of Inspector shall have to complete the basic training course at the Indian Institute of Legal Meteorology established by the Central Government under Section 76 of the Standards Act before he is considered for confirmation to the post."

4. A learned Single Judge of the High Court took note of the executive order dated 04.03.1989 which required a person to be a Science Graduate

for promotion as an Inspector, Weights and Measures and held that it cannot override the 1988 Rules. The Respondents were directed to promote the Appellant as Inspector, Weights and Measures with all consequential benefits. L.P.A No. 344 of 2011, filed by the Respondents was allowed by a Division Bench which held that the Appellant was not eligible for promotion for the post of Inspector, Weights and Measures as he is not a graduate in Science. The Division Bench completely misread Sub Rule 2 which exempted the application of Rule 20 (1) to persons who were eligible for promotion as Inspectors before the commencement of Rules.

5. In view of the above, we allow the Appeal and set aside the judgment of the Division Bench in LPA NO. 344 of 2011 dated 08.07.2011.

.....J
[S. A. BOBDE]

.....J
[L. NAGESWARA RAO]

NEW DELHI;
JULY 07, 2017

ITEM NO.7

COURT NO.7

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

Petition(s) for Special Leave to Appeal (C) No(s).22850/2012

(Arising out of impugned final judgment and order dated 08-07-2011 in LPA No.344/2011 passed by the High Court Of Patna)

BASUDEO PRASAD

Petitioner(s)

VERSUS

THE STATE OF BIHAR AND ORS.

Respondent(s)

Date : 07-07-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE

HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Ms. Niranjana Singh, Adv.
Mr. Saket Singh, Adv.
Ms. Sarvshree, Adv.
Ms. Sangeeta Singh, Adv.
For Mr. Abhijeet Sinha, AOR

For Respondent(s) Ms. Abha R. Sharma, AOR
Mr. D.S. Parmar, Adv.
Ms. Sujeeta Srivastava, Adv.
Mr. Susheel, Tomar, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

Pending interlocutory applications, if any, stand disposed of.

(SANJAY KUMAR-II)
COURT MASTER (SH)

(INDU KUMARI POKHRIYAL)
BRANCH OFFICER

(Signed Order is placed on the file)