

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13041 of 2008

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Dinesh Prasad, son of Late Ambika Prasad, resident of Mohalla – Khandakpar, P.S.
Biharsharif, District nalanda

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary to the Govt. of Bihar, Patna
2. The Principal Secretary, Shram Sansadhan Dept. Govt. of Bihar, Patna
3. The Bihar Public Service Commission, through its Chairman, Jawahar Lal
Nehru Marg, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Jha, Advocate

For the Respondent/s : Mr. Ranjit Sinha

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 04-09-2015

Heard Sri Mukesh Kumar Jha, learned counsel for the petitioner, learned AC to AAG No. 5 as well as Sri Ranjit Sinha, learned counsel, who has appeared on behalf of the respondent no. 3/ Bihar Public Service Commission.

The petitioner, invoking writ jurisdiction of this court under Article 226 of the Constitution of India, has prayed for quashing of an order contained in Memo No. 1405 dated 24.4.2008 passed by Principal Secretary, Department of Labour Resources, Government of Bihar. By the said order the representation filed by the petitioner i.e. Annexure – “6” for considering the case/ claim of the petitioner for granting the petitioner promotion to the post of Deputy Director with effect from 6.4.1994. He has also prayed for



directing for granting promotion to the post of Joint Director. The petitioner superannuated on 30.11.2003. Earlier, he had approached this court almost for the same relief by filing a writ petition vide CWJC No. 5721 of 2001. The said writ petition was disposed of with an observation that **“.....let the petitioner file a representation before the Secretary of the Labour Employment & Training Department, Govt. of Bihar, Patna, Respondent No. 3 raising his grievance about promotion.....”**. The representation was directed to be considered and disposed of in accordance with law. In terms of the order dated 30.10.2007 passed in CWJC No. 5721 of 2001 the petitioner filed representation vide Annexure – “6” to the writ petition raising his claim as mentioned hereinabove.

On perusal of Annexure – “6” it is evident that in sum and substance he has pleaded that one Sri Kumod Nandan Shrivastava, was illegally granted promotion to the post of Deputy Director with effect from 6.4.1994 whereas, in his service record *censure* was already recorded. The representation of the petitioner was thoroughly considered and by the impugned order i.e. Annexure - “7” his representation was rejected primarily on the ground that it was difficult to cancel the promotion of Sri Shrivastava. It has categorically been indicated that in the seniority list Sri Shrivastava was at serial no. 16 whereas, the petitioner was at serial no. 17. It is

further evident that on the roster point four posts were available and as per roster clearance those posts were filled up. Since the petitioner was at serial no. 17 and no post for general category was available, his case was not considered and accordingly, the representation of the petitioner was rejected. Of -course in the representation main thrust of the petitioner was that one Sri Kumod Nandan Shrivastva was illegally granted promotion, however , the said Sri Shrivastva has not been impleaded as party in the present writ petition. Moreover, the reasons assigned in the impugned order categorically deals with the grievances which were raised by the petitioner in its representation i.e. Annexure – “6” to the writ petition.

I do not find any error in the order.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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