

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5063 of 2015

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1. Surendra Kumar Gupta, son of Sri Mahabir Prasad Chowdhary, resident of Gudari Bazar, Mohalla Pokhara, P.S. Hajipru, District Vaishali.
 2. Ramchandra Mahto , son of Late Bachanoo, Mahto , resident of Village Dubana, P.S. Sakra, District -Muzaffarpur.
 3. Manoj Kumar Sinha, son of Dr. Ramchandra Prasad , resident of Shivam Kutir, Mohalla -Shivpuri, P.S. - Shashtrinagar, District -Patna.
 4. Vinod Kumar Singh son of Sri Chandra Mohan Singh , resident of Village-Belaur, P.S. Industrial Area Buxar, District - Buxar.
 5. Ramadhar Singh , son of Late Sidheshwar Singh, resident of Village Jagdishpur, P.O. Bhorthu, P.S. Ghoshi, District - Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Government of Bihar, Patna.
2. Principal Secretary, Home Department, Government of Bihar, Patna.
3. Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. Secretary, Home (Special) Department, Government of Bihar, Patna.
5. Additional Secretary cum Director (Administration), Directorate of Prisons and Correctional Services , Home Department, Government of Bihar, Patna.
6. Inspector General of Prisons and Correctional Services, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Siddhartha Prasad

For the Respondent/s : Mr. Anjani Kumar, AAG 6

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 18-08-2015

The petitioners, who are 5 in number, are seeking direction upon the respondent State authorities to issue promotion orders on the post of Jail Superintendent in view of the recommendation made by the Departmental Promotion Committee on 5.8.2014.

2. After the recommendation was made by the DPC, the General Administration Department, Government of Bihar, issued an



order dated 12.8.2014 imposing a ban on any kind of grant of promotion across the board in one or all the departments in view of an interim order of stay passed in the case of Sushil Kumar Singh Vs. State of Bihar, which was CWJC No. 19114 of 2012. That writ application was allowed. The Resolution contained in Memo No. 11635 dated 21.8.2012 was quashed.

3. An appeal against the order of the learned single Judge, on behalf of the State of Bihar, has already been dismissed. Preparation is on to file an SLP.

4. This is the background under which recommendation of the Departmental Promotion Committee was not acted upon which, learned counsel for the petitioners submits, is irrational, arbitrary and violative of Articles 14 and 16 of the Constitution of India.

5. Counsel for the petitioners further submits that most of these petitioners are on the last leg of their service. If they miss out on their promotion because of the legal battle being carried on by the State of Bihar, they can never be compensated fairly and adequately.

6. The Principal Secretary, Department of General Administration, Government of Bihar, was directed to file counter affidavit as to what is the stand of the State after the disposal of the LPA by the Division Bench. The position taken in the affidavit by the Principal Secretary is that State is filing an SLP and also obtaining

opinion from the Attorney General.

7. This Court fails to understand as to how that can come in the way of these petitioners' right for promotion especially when their right has been found to be in order by the Departmental Promotion Committee.

8. The best which the State can do is to grant promotion with a rider that it shall be subject to outcome of the SLP but to keep such persons debarred from consideration on the spacious ground is an unacceptable position and an irrational stand to take.

9. In view of the above, writ application is allowed.

10. Respondent authorities of the State of Bihar are directed to issue the necessary promotion orders within a period of four weeks from the date of production of a copy of this judgment. They surely have a right to put a rider on the promotion of the petitioners that it shall be subject to the outcome of what the Hon`ble Apex Court may decide and such promotion order will not become a vested right over and above what may be decided by the Apex Court.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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