

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2492 of 2015

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Niraj Kumar Srivastav S/o Yogendra Prasad Srivastav R/o village - Hari
Batika, P.S. - Bettiah, Dist. - West Champaran.

.... Petitioner/s

Versus

1. The Food Corporation of India through its Managing Director, New Delhi.
2. The Executive Director (East) Food Corporation of India Zonal Office 10A, Middleton Row, Kolkata West Bengal.
3. The General Manager (R) Food Corporation of India Regional Office, Arunachal Building Exhibition Road, Patna, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajnish Ranjan

For the Respondent/s : Mr. Prabhakar Tekriwal

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

5 15-04-2015

Heard learned counsel for the parties.

The prayer of the petitioner in this writ application
reads as follows:-

"1(a) A writ is in nature of certiorari or any other appropriate writ order/orders directions for quashing the order dated 3.12.14 contained in ref:- No. 30(836)/2014 by which the respondent disposed of the representation of petitioner dated 25.8.12 keeping the promotion of the petitioner under scaled cover. Annexure-6 To the petitioner.

(b) A writ in the nature of mandamus or any other appropriate writ order/orders, direction, commanding the respondent for flowing:-

(i) To promote the petitioner from Assistant Grade II (Depot) to manager (Depot) with all consequential benefit, from the date the similar situated employees have been

promoted.

- (ii) *To hold the order contained in annexure to the petitioner is no nest in the eye of law."*

When this case was heard earlier on 10.2.2015, this Court, in the light of the submission of the learned counsel for the parties, had passed an order which reads as follows:-

"Having regard to the issue involved in this writ application, the most crucial question would be as to whether a prosecution for criminal charge against the petitioner was pending on the date on which his case was considered for promotion. Unfortunately, pleading in this respect by the petitioner is not sufficient inasmuch as he has only produced copy of charge sheet dated 11.04.2006 showing the police to have submitted a final form recommending trial against other co-accused while keeping investigation against the petitioner pending.

Let it be noted that the case of promotion of the petitioner was considered after 11.04.2006 and his case was decided to be kept under seal cover. Therefore, the respondents would require to explain as to on what basis, whether mere pendency of investigation against the petitioner or some other material relating to the criminal case, the case of the petitioner was kept under sealed cover."

Pursuant to the aforesaid interim order, Mr. Prabhat Tekriwal, learned counsel for the respondent, has produced a copy of the letter dated 17.3.2015 which, according to this Court, now redresses the grievance of the petitioner. The said letter dated 17.3.2015, as produced by Mr. Tekriwal, is being reproduced by

making it part of this order:-

"Ref No. Estt.30(836)/2014

Dated 17.03.2015

MOST URGENT/TIME BOUND
COURT CASE

To

The General Manager (Region)

Food Corporation of India

Regional Office, Arunachal Bhawan

Exhibition Road, Patna-1

Sub:- CWJC No. 4403 of 2014

Niraj Kumar Srivastava

-Vs-

FCI & Ors.

Sir,

Kindly refer to your letter under ref no. Estt. 30(205)/2014-Vol.I dated 27.02.2015 and dated 04.03.2015 on the matter cited above.

In this connection, the matter has been examined by the Competent Authority in consultation with ZO(E), Vigilance division and it has been decided to release the Sealed Cover promotion in respect of the petitioner Shri Niraj Kumar Srivastav to the post of AG-I(D) which was kept under Sealed Cover by the ZPC held on 24.08.2007 and 29.10.2014 as it is prima facie observed from the investigation report submitted by P.S. Bethia in P.S. Case No. 18/2006 and also as intimated by FCI, Panel Advocate vide letter dated 28.02.2015 that no chargesheet has been framed against the petitioner Shri Niraj Kumar Srivastava, AG-II(D) though the investigation is pending.

It is, therefore, requested to intimate the Hon'ble Patna, High Court through our conducting Advocate when the matter will be heard. The development in the matter may please be intimated to this office from time to time.

Yours faithfully

SD/-

(Sanjeev Suryakar)

Asst. General Manager (Pers.)

For Executive Director (East)"

As would be now found that the respondents have decided to open the seal cover of the petitioner and take a decision for notifying the promotion of the petitioner as per the decision taken in the sealed cover, Mr. Tekriwal in fact informs this Court that the Departmental Promotion Committee has already recommended for promotion of the petitioner and only a formal notification is to be issued which is likely to be done by next Monday.

That being so, this writ application is disposed of with a direction to the respondents to act in accordance with the decision taken in the letter dated 17.3.2015, as quoted above.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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