

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11978 of 2005

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Ajay Kumar Prasad, son of Late Baleshwar Prasad, resident of village-
Nainpur, P.S. Nainpur, District- Mandla (M.P.), presently working as
Electrical Superintending Engineer, Electric Supply Circle, Chhapra

.... Petitioner

Versus

1. Bihar State Electricity Board through its Chairman, Vidut Bhawan,
Bailey Road, Patna
2. Chairman, Bihar State Electricity Board, Vidut Bhawan, Bailey Road,
Patna
3. Secretary, Bihar State Electricity Board, Vidut Bhawan, Bailey Road,
Patna
4. Joint Secretary, Bihar State Electricity Board, Vidut Bhawan, Bailey
Road, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Mahesh Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

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42 03-02-2015 The sole petitioner invoking writ jurisdiction under Article 226 of the Constitution of India has prayed for quashing the order contained in Resolution No.440 dated 12.05.2005 issued by the Bihar State Electricity Board(hereinafter referred to as the “Board”). By the said order, the claim of the petitioner for retrospective promotion w.e.f. 04.06.1998 to the post of Electrical Superintending Engineer has been rejected. The petitioner has further prayed for directing the Respondents to grant the petitioner regular promotion with all consequential benefits to the post of Electrical Superintending Engineer with effect from 04.06.1998 and also subsequent promotion to the post of Chief Engineer with



effect from 03.06.2003. The order dated 12.05.2005 was passed by the Board vide Annexure-1 to the writ petition pursuant to the order passed by this Court in C.W.J.C.No.10698 of 2004 on 14.09.2004. The order dated 12.05.2005 categorically states that the petitioner was facing criminal prosecution for the offence under Section 420,467, 468,471, 477 of the Indian Penal Code and Sections 13(2) and 13(1)(d) of the Prevention of Corruption Act 1988 vide Vigilance P.S. Case No.2/96 dated 18.01.1996. Besides criminal case, the petitioner was also proceeded departmentally and even in Departmental Proceeding, misrepresentation was noticed. In vigilance Case, after investigation, chargesheet was submitted and on 22.11.1998, cognizance order was also passed. The order further indicates that as per provision, promotion is granted on the basis of merit-cum- Seniority and suitability. The Sub Rule-86 of Bihar State Electricity Board Service Rules, 1976 contemplates as follows:

“No employee of the Board shall be promoted from his existing post, if prima facie charges of corruption, bribery, gross negligence, misappropriation or any other charge involving lack of integrity , serious lapse of duty and acts of indiscipline are pending or any departmental proceeding is being conducted against him.”

The case of promotion of the petitioner was considered

at least on five occasions by the Departmental Promotion Committee. In the counter affidavit filed on behalf of Respondents details of consideration for promotion of the petitioner has been mentioned in paragraph-8 , which is quoted herein below:

“ 8. That the case of the petitioner for his promotion on the post of E.S.E. was considered on as many as five occasions by the D.P.C. on the following dates and recommendations:-

<u>Date</u>	<u>Recommendation</u>
(i) 21/22.05.98	– Unfit for promotion in view of the misconduct.
(ii) 22.09.99-	Pending for Vigilance clearance post reserved.
(iii)07.05.2001-	Pending for clearance from charges
(iv) 08.08.2001-	Unfit
(v) 05/06.04.2002-	Unfit on account of totally unsatisfactory and adverse service records.”

Besides this, a specific stand has been taken that the petitioner had obtained employment in the Electricity Board on the basis of false Caste Certificate, for which departmental proceeding is also pending. On perusal of the order, the Court is satisfied that it is not a case for interference.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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