

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 7419 of 2011

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Tarun Kumar Sinha S/O Late Kedar Nath R/O Mohalla Amber
Punchganwan P.S. Biharsharif, Distt. Nalanda

.... Petitioner

Versus

1. The State of Bihar Through Secretary-Cum -Commissioner Excise Govt. of Bihar, Patna
2. The Deputy Commissioner, Excise Govt. of Bihar, Patna
3. The Assistant Commissioner, Excise Govt. of Bihar, Patna, New Secretariat, Bailey Road , Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Md. Khurshid Alam

For the Respondent/s : AC to Advocate General

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3. 16-12-2015 Heard Mr. Md. Khurshid Alam, learned counsel for the petitioner and learned A.C. to Advocate General.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for directing the respondents to consider his case for promotion from Excise Constable to the post of A.S.I. of Excise after relaxing the age bar.

It has been pleaded that the petitioner was earlier appointed as Constable on 27-02-1980 and he obtained requisite eligibility for being promoted as Assistant Sub Inspector of Excise, but his case was not properly considered. It has also been claimed that though as per procedure prescribed under the Excise Manual, every year for consideration of promotion from the post



of Constable to A.S.I. Excise, Departmental Promotion Committee meeting was to be held, but due to laches on the part of the department, it was not regularly held. Lastly, it was held in the year 2004, however; he was not granted promotion and thereafter, in the year 2010, when the meeting of Departmental Promotion Committee was held, the claim of the petitioner was not entertained, on the ground that he has already crossed the age of 50 years.

Learned counsel for the petitioner has placed reliance on number of orders passed by this Court, particularly; in C.W.J.C. No. 2150 of 2010, which was allowed alongwith C.W.J.C. No. 2201 of 2010. He submits that almost in identical situation, even after crossing the age bar of 50 years, this Court had directed to consider the case for promotion after relaxing the age bar.

In this case, a counter affidavit has been filed on behalf of respondents. In counter affidavit, it has not been disputed that the petitioner was not having requisite eligibility for being promoted, but a plea has been taken that on the date of meeting of last Departmental Promotion Committee, which was held in the year 2010, the petitioner since had crossed the age bar, his case was not considered. In paragraph – 7 of the counter affidavit, respondents have accepted that some juniors to the

petitioners, who were within the consideration zone, having requisite qualification were granted promotion to the post of Assistant Sub Inspector of Excise and it has also been admitted that the petitioner passed the requisite qualification for promotion in the year 1990-91.

Learned State counsel has not disputed the proposition, which was laid down by this Court in C.W.J.C. No. 2150 of 2010 alongwith C.W.J.C. No. 2201 of 2010.

In view of the facts and circumstances, the Court proposes to allow the writ petition in terms of order dated 13-08-2010 passed in C.W.J.C. No. 2150 of 2010 with C.W.J.C. No. 2201 of 2010 with a direction to consider the case of petitioner for promotion to the post of Assistant Sub-Inspector, Excise from the date the juniors have been promoted after relaxing the age bar of 50 years. All the formalities must be completed within a period of four months from the date of receipt/production of a copy of this order.

The writ petition stands allowed.

(Rakesh Kumar, J.)

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