

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13904 of 2015

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1. Jai Prakash Narayan Singh Son of late Jagdish Narayan Singh Mohalla-Bahadurpur, Rajendra Nagar, Police Station -Bahadurpur, District Patna, at present posted as Additional Director, Patna Museum, Patna with Additional charge of Director, Museums Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Cabinet Co-ordination, Govt of Bihar, Patna.
3. The Principal Secretary, Department of General Administration, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Art, Culture and Youth, Govt. of Bihar, Patna.
5. The Addl. Secretary Department of General Administration, Govt. of Bihar Patna.
6. The Additional Secretary, Department of Finance, Govt. of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Ajay Kumar Thakur
Mr. Nilesh Kumar

For the Respondent/s : Mr. SC23- Kumar Priya Ranjan

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 16-09-2015

It is the claim of the petitioner that the DPC met and held a meeting on 4.8.2015. Claim of the petitioner is for promotion to the post of Director, Museums in the State of Bihar in terms of the provisions in existence in Bihar Archaeology and Museum Services Rules, 2014. DPC has recommended his case for promotion. Petitioner has been found to be eligible. There is a single post of Director, therefore, there is no dispute with regard to reservation etc.

Contention of the counsel for the petitioner is that the



primary reason coming in the way of issuance of a notification of promotion in favour of the petitioner is a so-called notification issued by the General Administration Department putting a ban on promotion across the board in view of a pending litigation where a resolution of the State Government extending benefit of promotion to scheduled castes and scheduled tribes was under challenge. Such a notification was initially stayed by a learned Single Judge and subsequently quashed. A Division Bench of this Court has upheld the decision of the learned Single Judge.

Merely because the State is contemplating or has moved the Hon'ble Apex Court, the right of the petitioner for promotion cannot be kept in abeyance. What is significant is that even if the State Government succeeds in SLP, the right and claim of the petitioner as such is not likely to be directly affected, which would be evident from reading of the recommendation of the DPC in this regard.

Let the necessary formality of issuance of notification of promotion of the petitioner be made. The State may incorporate in the order of promotion that the order of promotion will be subject to the outcome of the SLP and if it has fall out on such a decision. However, since the petitioner is inching towards the evening of his life, he cannot be made to wait indefinitely and more so when there

may not be a mechanism by which he can be compensated, if the significant time is lost in the above litigation.

Writ is allowed with the above direction. The decision must be taken within a period of three months from the date of production of a copy of this order.

(Ajay Kumar Tripathi, J)

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