

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4921 of 2004

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1. Suryadeo Sharma , s/o of Sheo Lal, resident of village Dilawarpur, P.O. Bihta, P.S. Bihata, District Patna presently employed as Watchman in the FCI District Manager, Muzaffarpur
 2. Bipul Kumar s/o Sri Sheo Pujan Sharma, resident of village Sachai, P.O. and P.S. Kurtha, District jahanabad presently employed as Watchman in FCI under District manager, Muzaffarpur
 3. Pankaj Kishore Sharma, s/o Sri Ram Pravesh Sharma, village and P.O. Anandpur, P.S. Bihar, District Patna presently employed as Watchman in the FCI District manager, Muzaffarpur
 4. Umesh Kumar Singh, s/o Sri Bhagawan Singh Kutubpur, P.O. K.P. Rampur, P.S. Doriganj, District Chapra, presently employed as Watchman in the FCI District manager, Muzaffarpur
 5. Rakesh Kumar, s/o Sri Ram Kumar Singh P.O. parampura, P.O. – Khamainee , P.S. Arwal District Jahanabd, presently employed as Watchman in the FCI district Manager, Muzaffarpur
 6. Mahesh Prasad Singh, s/o Sri Pati Ram Singh, village Khapuri, P.S. Dulhin Bazar, District Patna, presently employed as watchman in the FCI district Manager, Muzaffarpur
 7. Atish Kumar , s/o Sri M.K. Singh resident of Choti Badalpur, Khapoul, District Patna presently employed as Watchman in the FCI District Manager, Muzaffarpur

.... Petitioner/s

Versus

1. The Food Corporation of India through Chairman cum Managing Director, 16-20 Barakhamba Lane new Delhi
2. Zonal Manager, The Food Corporation of India, 10A, Middleton Row, Kolkata – 71
3. Senior Regional Manager, The Food Corporation of India, Arunanchal Building Exhibition Road, patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Braj Nandan Tiwary
Mr. Nalin Vilochan Tiwary

For the Respondent/s : Mr. Prabhakar Tekriwal

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

10 08-09-2015 Heard Sri Mukesh Kumar, learned counsel for the

petitioners and Sri Prabhakar Tekriwal, learned counsel for the

respondent/ Food Corporation of India.



Seven petitioners, invoking writ jurisdiction of this court under Article 226 of the Constitution of India, have prayed for directing the respondents to promote them to the post of Assistant Grade- III (General Department), in accordance with Special Instruction vide ED(P)'s DO Letter No. 41(9)/2000 - OMISS dated 27.6.2000.

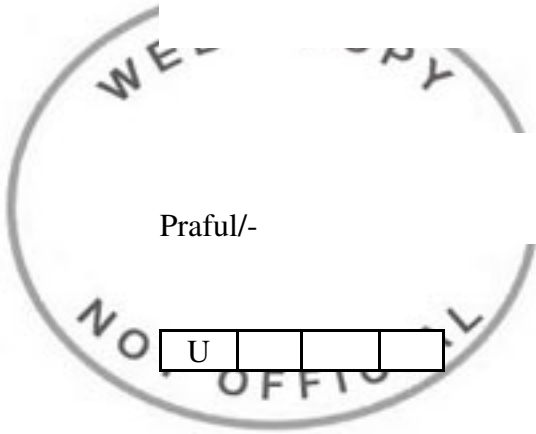
Learned counsel for the petitioners submits that in view of the said Special Instruction dated 27.6.2000, the F.C.I. had given promotion to Category -IV employee (Matriculate) to the post of Assistant Grade- III vide Annexure – '5' to the writ petition i.e. the Order Dated 23.10.2003. He submits that altogether 268 persons were promoted and similarly, vide Annexure – '5/1', 79 similarly situated persons have been promoted as Assistant Grade –III (General), however, the petitioners' were not granted promotion on the plea that they were appointed illegally. Learned counsel further submits that the validity of appointment of petitioners has now got the seal of Hon'ble Supreme Court. Earlier, an Award was prepared in favour of the petitioners vide Annexure – "1" to the writ petition by the Central Government Industrial Tribunal, Dhanbad. The said Award has finally been approved up to the Supreme Court.

Sri Tekriwal, learned counsel for the respondent/ Food

Corporation of India accepts that now the question of appointment of the petitioners is not in dispute. However, he submits that on the availability of the sanctioned post, cases of petitioners promotion to Assistant Grade III can be considered.

In view of facts and circumstances particularly the fact that there is no dispute that a Category- IV employee having requisite qualification of Matriculation and completed 12 years of service as on 31.12.2001 was considered to be promoted as Assistant Grade -III, there is no reason to ignore the case of the petitioners if they fulfill the criteria as per Special Instruction dated 27.6.2000. Accordingly, the writ petition stands allowed with a direction to the respondents to consider the claim of the petitioners for their promotion as Assistant Grade -III in terms of the Special Instruction dated 27.6.2000 as has been extended to similarly situated persons vide Annexure – '5' and '5/1' to the writ petition in accordance with law. The case of the petitioners is required to be considered and adjudicated in similar terms as other similarly situated persons have been granted in view of the Annexure – '5' and '5/1' to the writ petition. The court expects that the respondents will take final decision in the matter preferably within a period four months from the date of receipt / production of a copy of this order.

With above observation, the writ petition stands
allowed.



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(Rakesh Kumar, J)