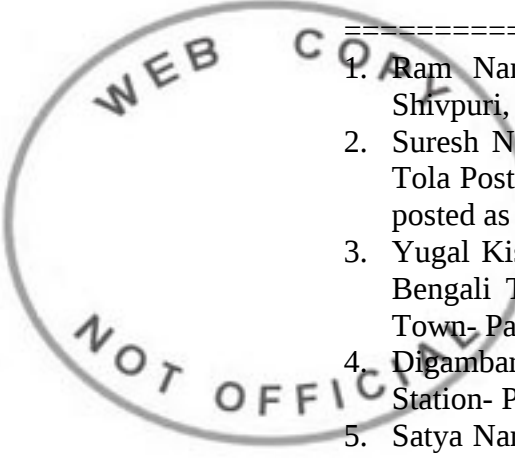


IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16062 of 2007

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1. Ram Nandan Singh, Son of Late Chamari Singh, Resident of Mohalla-Shivpuri, Police Station Shastrinagar, District & Town- Patna
 2. Suresh Nandan Prasad Son of Late Govind Mahto, Resident of New Bengali Tola Postal Park, Police Station Kankarbagh, District & Town Patna, at present posted as Secretary to Chief Secretary, Government of Bihar, Patna
 3. Yugal Kishore Prasad Singh, Son of Late Chotto Grain, Resident of Mohalla-Bengali Tola, Devi Asthan Ram Nagar Police Station Jakkanpur, District & Town- Patna
 4. Digambar Labh, Son of Late Amiri Labh, Resident of village- Isahpur, Police Station- Pandaul, District Madhubani (Bihar)
 5. Satya Narayan Prasad, Son of Late Raghunandan Prasad, Resident of Mohalla-New Atwarpur, Police Station- Parsa, District Patna, at present posted as Secretary to the Secretary, Department of Personnel & Administrative Reforms, Government of Bihar, Patna
 6. Ajit Kumar Srivastava, Son of Late Chhabildeo Prasad Srivastava, Resident of Back of Police Cooperative Office, Police Colony, Paharpur Anishabad, Police Station Gardanibagh, District & Town- Patna, at present posted as Secretary to the Secretary, Art Culture & Youth Department, Government of Bihar, Patna
 7. Kamleshwar Prasad Srivastava, Son of Late Sarjug Prasad, Resident of Mohalla- 92/400 Rajbanshi Nagar, Road No.2, Police Station Shastrinagar, District & Town- Patna at present posted as principal Private Secretary to Finance Commissioner, Government of Bihar, Patna
 8. Jitendra Prasad, Son of Late Arjun Prasad, Resident of Mohalla- Azad nagar, Road No.2, Lohianagar, Police Station Kankarbagh, District & Town Patna, at present posted as Secretary to the Secretary, Department of Health, Government of Bihar, Patna
 9. Kailash Prasad, son of Sri Bengali Das, Resident of Mohalla- Indrapuri, Sipara, Police Station District & Town Patnaa, at present posted as Secretary to the Secretary, Department of Tourism, Government of Bihar, Patna
 10. Surendra Chaudhary, Son of Late Babu Ram Chaudhary, Resident of Mohalla-Flat No.644/88, LSS Nagar, Police Station Shashtrinagar, District & Town Patna, at present posted as Secretary to the Secretary, Department of Human Resources (Education), Government of Bihar, Patna
 11. Basant Ram, son of Sri Yogendra Ram, Resident of village- Bensugar, Police Station Karakat, District Rohtas at Sasaram, at present posted as Secretary to the Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
- Petitioner/s

Versus

1. The State of Bihar
 2. The Chief Secretary, Government of Bihar, Patna
 3. The Secretary, Department of Administrative and Personnel Reforms, Government of Bihar, Patna
 4. The Principal Secretary, Department of Finance, Government of Bihar, Patna
 5. The Deputy Secretary, Department of Administrative and Personnel Reforms, Government of Bihar, Patna
 6. The Under Secretary, Department of Administrative and Personnel Reforms, Government of Bihar, Patna
- Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Prakash
Mr Satya Prakash
Mr Vipin Kr. Singh
For the Respondent/s : Mr. Himansu Kumar Akela, AC to GA 1

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 14-08-2015

Claim of these petitioners have been rejected vide order dated 24th July, 2007, which is being assailed in the present writ application. Annexure- 7 is the impugned order, whose quashing the petitioners are seeking.

From reading of Annexure- 7, it emerges that the respondent authorities have rejected the claim of the petitioners to grant them benefit of promotion from the day vacancies occur along with financial benefit thereto. The petitioners were looking for some kind of parity with the petitioners of CWJC No.2520 of 2000.

Submission of the counsel for the petitioners is that merely because the State authorities have delayed taking a decision in granting promotion to these petitioners, they cannot be made to suffer, therefore, the promotion order contained in Annexure- 1 should relate back when the vacancies occurred and even financial benefit should accrue accordingly.

Such an expectation or submission is absurd. This Court is not aware of any decision where a promotion can be granted as a

rule when a vacancy occurs and even the benefit of financial kind will accrue even without consideration and grant of promotion on substantive basis.

Vacancies do occur but then the decision to grant promotions are based on many parameters. Mere occurrence of vacancy does not give a right to a government servant for promotion unless he satisfies the requirements of the rules for grant of such promotion. Besides, the issue of seniority etc. etc. Such exercise is bound to take time and, therefore, that cannot be made a ground for making a grievance that they have acquired a right for promotion from the date of vacancies and they also need to be compensated monetarily.

In addition to Annexure- 7, since Annexure-1 as such is also not under challenge, the writ application is required to be dismissed because Annexure- 7 does not suffer from any element of vice or arbitrariness.

(Ajay Kumar Tripathi, J)

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