

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8682 of 2014

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Subhash Chandra Gupta son of Kishore Chandra Gupta resident of Mohalla Saketpuri west of Bazar Samiti P.O. Rajendra Nagar, Patna at present Ledger Keeper cum District Khadi Village Industries Officer, Arrah, Bhojpur

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Industries Department, Bihar, Patna
 2. The Secretary, Department of Personnel and Administrative Reforms, Bihar, Patna
 3. Bihar State Khadi Gramodyog Board through its Chief Executive Officer, Gandhi Maidan (East) Patna- 4
 4. Deputy Chief Executive Officer, Bihar State Khadi Board, Patna
- Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Shashi Shekhar, Adv.

For the Respondent/s : Mr. Ashok Kumar Keshri, AAG-XI

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 18-03-2015 Heard learned counsel for the petitioner and counsel for the State.

Despite filing of the counter affidavit by one Mr. Lalit Kumar Singh on behalf of the respondent no.3, he has not appeared when this case was called out.

The prayer of the petitioner in this writ application reads as follows:-

"1(I) *For issuance of writ in the nature of Manamus commanding upon the Respondents authority for the payment of time bound promotion benefit since year 2000 till payment with statutory interest andalso for the promotion to the post of Assistant Accounts officer from the post of Ledger Keeper cum District Khadi Gramodyog Officer as the Junior has been promoted.*

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- (II) *For issuance of a writ in the nature of Manamus commanding upon respondent Department of Personnel and Administrative Reforms to pay the salary and give promotion to the petitioner by the Respondent Board according to the circular of Government of Bihar according to Government of India salary and promotion.*
- (III) *For issuance of commanding and directing the Respondents to pay arrears of salary of promotion benefit of time bound promotion and to grant promotion from the post of Ledger Keeper cum I/c District Khadi Gramodyog Officer to the post of Assistant Accounts Officer."*

The respondent State of Bihar having filed counter affidavit has conveyed its totally non-concern as the matter in issued relates to Bihar State Khadi and Village Industry Board (hereinafter referred to as the Board) according to Respondents 1 and 2 is the only competent authority to take a decision in relation to the promotion of the petitioner.

The Board on the other hand through its counter affidavit sworn on behalf of the respondent no.3 and 4 has taken the following stand:-

- "3. *That reliefs prayed in Para-1 of the Writ Petition by the petitioner to which the Petitioner is entitle for the benefit of time bond promotion but as he has claimed for the promotion from the post of ledger keeper to senior Ankeshan Padadhipari and there after to post of Assistant Account Officer is not judicious in the eye of law concerning the Statute/Rule framed of Bihar Khadi and Village*

Industries Act, 1956.

4. *That the Substantial questions of law formulated in Para-2 of the Writ Petition are partly judicious and such may determined by this Hon'ble court.*
6. *That with regard to the statement made in Para-4 of the Writ Petition under reply, it is stated that already the screening committee has been constituted for giving the benefit of time bond promotion on dated 24-02-2015.*
7. *That with regard to the statement made in Pra- 5, 6, 7 and 8 it is stated that it is not true that one junior to the petitioner namely Jitendra Kumar has been promoted to the post of Assistant Account Officer, up till now he is working as Assistant Account Officer under the stop gap arrangement so that necessary work may not be suffered but he has not been given any benefit of promotion/scale.*
8. *That with regard to the statement made in Pra-9 it is stated that since no promotion has been given because as per the rule framed under the Bihar Khadi and Village Industries Act, 1956. It is clearly mention that with regard to promotion matter will be considered by the Establishment committee headed by the chairman to decide the promotion matter of the Khadi Board Class 3&4 Employee.*
9. *That with regard to the statement made in Pra-10 & 11 it is submitted that at the present context due to non abilities of the chairman in the Khadi Board the grievance of the petitioner with regard to the promotion of the post is impossible because up till now the matter has not been taken up by the Establishment committee in accordance with law as provided under the Bihar Khadi and Village Industries Act, 1956."*

From reading of the aforesaid stand of the Board, it

becomes clear that the case of the petitioner for promotion is to be considered by the competent authority namely Establishment Committee. The Establishment Committee in fact is not able to meet because of the non-availability of the Chairman of the Khadi Board and, therefore, all that at present can be said is that the case of the petitioner also should be considered within a period of three months from the date of appointment of the Chairman of the Khadi Board with other eligible persons for the promotional post if he is found to be eligible in terms of the policy of the Board.

It is, however, made clear that this Court has not gone into the merit of the claim of the petitioner because the respondent no. 3 and 4 have not taken such a decision regarding promotion and the matter has to be initially decided by the Establishment Committee of the Board as per its rules and procedures. Thus, whatever decision has to be taken in the case of the promotion of the petitioner must be taken within the aforesaid period of three months commencing from the date of appointment of the Chairman of the Board.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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