

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21388 of 2014

Raj Narayan Chaudhary, Son of Late Japan Chaudhary, Resident of Village -
Makara, P.S.- Nayagaon, District - Chapra

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Road Construction Department, Bihar, Patna.
3. The Secretary, Bihar Public Service Commission, Patna.
4. The Special Secretary, Road Construction Department, Bihar, Patna.
5. The Additional Secretary, Road Construction Department, Bihar, Patna.

.... Respondents

Appearance :

For the Petitioner/s : Mr. Prabhu Nath Pathak, Advocate
For the State : Mr. M. Nasrul Huda Khan, S.C.-18
Ms. Babita Kumari, A.C. to S.C.-18
For the B.P.S.C. : Mr. Rajnikant Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 11-09-2015

Heard learned counsel for the parties.

A sealed cover procedure was adopted against the petitioner when his case was taken up for consideration for promotion to the post of Chief Engineer w.e.f. 17.07.2014 the Court is not required to delve in the issue as to why the seal covered procedure was adopted because there is no dispute that there was a departmental proceeding initiated and pending against him.

That position changed on 10.10.2014 because by virtue of the notification contained in Annexure-3 issued under the signature



of the Deputy Secretary (Vigilance), Road Construction Department, Government of Bihar, Patna, the petitioner was exonerated of all the charges and a direction for payment of his rightful due was given especially for the period of suspension.

Petitioner has filed the writ application for a direction upon the respondent-authorities to now take up his case for promotion since his juniors have already been granted promotion.

The State in the counter affidavit do not dispute that the case of the petitioner is required to be considered and they are willing to do so. However, they express inability in view of the General Administration Department Order dated 12.08.2014 putting a ban on any kind of promotion across the Board.

The background under which such an order was required to be issued was an order of this Court, passed by a learned single Judge, in relation to a resolution dated 21.08.2012 providing benefit of reservation even in promotion to S.C.S.T. employees. That situation has changed. The learned single Judge has quashed the notification. The State's appeal against the said decision has also been rejected. The order of the General Administration Department dated 12.08.2014 has lost its meaning.

In view of the above, the respondents are now directed to

hold a DPC open the sealed cover and make appropriate recommendation for promotion of the petitioner within a reasonable time frame well before the petitioner's superannuates which is 31st December, 2015.

Writ is disposed of with above observation.

(Ajay Kumar Tripathi, J)

Vats/-

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