

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.3125 of 2014**

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Chandra Shekhar Ojha, S/O Late Sarvanand Ojha, Resident Of Shri Krishnapuri (West), Near R.N.A.R. College, C/O Shri Ram Subodh Thakur, P.S- Samastipur, District- Samastipur.

.... .... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary, Department Of Law, Bihar, Patna.
2. The Registrar General, Patna High Court, Patna.
3. District and Session Judge, Samastipur.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Abhinav Srivastava

For the Respondent/s : Mr. AAG-6 Anjani Kumar

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**

ORAL JUDGMENT

**Date: 09-12-2015**

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Heard learned counsels for the parties.

Present petitioner, who is an Ex-serviceman, is working on a Class-IV post in the judgeship of Samastipur. When the respondent-authorities initiated the exercise of granting promotion from Class-IV post to Class-III, petitioner became one of the applicants, because in his opinion he had the requisite eligibility qualification to be considered and promoted. When he was not granted promotion he decided to approach the High Court for a judicial remedy.

The thrust of the argument of learned counsel representing the petitioner is based on a notification, contained in Annexure-4, which has been issued by Ministry of Personnel, Public



Grievances and Pension (Department of Personnel & Training) and is dated 12<sup>th</sup> of February, 1986. This notification indicates certain advantages to Ex-servicemen in matters of re-employment. The Court is not required to delve too deep into such notification. But, it seems that certain Ex-servicemen, who are working for atleast 15 years in certain capacity, will be treated to be a Graduate and even certificates in this regard has been issued in favour of the petitioner as per Annexure - 5.

Petitioner used this qualification to meet the eligibility of Graduation, but the learned District Judge, Samastipur in absence of any clarity on the issue, referred the matter to the High Court for guidelines. What emerges in the counter affidavit, especially, Annexure-D, which is a communication under the signature of Registrar (Administration), Patna High Court, Patna, is the answer for the petitioner. The reason for rejecting the claim of the petitioner or non-consideration seems to be founded in Annexure-D.

The administrative side of the High Court did not accept such qualification to be equivalent to a Graduation degree.

Learned counsel representing the petitioner submits that Annexure-4 is Government of India's notification. Amendment has been brought about under Article 309 of the Constitution of India to the Rules of 1975 known as Ex-Servicemen (Re-employment in Central Civil Services and Posts) (Amendment) Rules, 1986.

From bare perusal of Annexure-4, it is evident that this

rule relates to employment and appointment to be made under Group-C post under the Central Government. There cannot be a dispute that the Rule can not apply across the board even for employment in a State Government. There cannot be an obligation upon them to be bound by such an enactment, because the rule is very specific and is meant for employment under the Central Government.

Coupled with the fact that despite adjournments granted earlier, the petitioner has failed to produce any corresponding notification of the State Government, indicating adoption of Annexure-4 with regard to appointments and promotions in the State of Bihar, this Court will go by the wisdom of the High Court, which is reflected in Annexure-D to the counter affidavit.

No case for the petitioner, therefore, is made out on the basis of Annexure-4.

Writ application is dismissed, accordingly.

**(Ajay Kumar Tripathi, J)**

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