

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

**Letters Patent Appeal No.422 of 2015  
IN  
Civil Writ Jurisdiction Case No. 11452 of 2014**

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Ramjee Singh, S/o - Late Bhagwat Singh Vill. - Basauli, P.S. - Rajapakar, Distt. -  
Vaishali (Hajipur), presently post ed as Joint Secretary, Deptt. of Agriculture, Govt.  
of Bihar, Patna.

.... .... Appellant/s

Versus

1. The State of Bihar, through Principal Secretary, Department of General Administration, Govt. of Bihar, Patna.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. Principal Secretary, Department of General Administration, Govt. of Bihar, Patna.
4. Chairman, Departmental Promotion Committee - Cum - Member Board of Revenue, Govt. of Bihar, Patna.
5. Principal Secretary, Department of General Administration - cum - Secretary, Departmental Promotion Committee, Govt. of Bihar, Patna.
6. Principal Secretary, Department of Mines and Archaeology - cum - Member, Departmental Promotion Committee, Govt. of Bihar, Patna.
7. Special Secretary - cum - Member, Departmental Promotion Committee, Govt. of Bihar, Patna
8. Additional Secretary, Disaster Management - cum - Member, Departmental Promotion Committee, Govt. of Bihar, Patna.
9. Under Secretary, General Administration Department - cum - Member, Departmental Promotion Committee, Govt. of Bihar, Patna.

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Y V Giri, Sr. Advocate  
Mr. Ashish Giri, Advocate  
For the Respondent/s : Mr. Kaushal Kumar Jha, AAG 14  
Mr. Krishna Chandra Jha, AC to AAG 14

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE JUSTICE SMT. ANJANA MISHRA**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 14-07-2015**

The appellant is working as Joint Secretary in the Bihar State Administrative Service. The promotion from that post is to the post of Additional Secretary. The Departmental Promotion Committee met for this purpose, on 7.4.2014 and the petitioner was in the zone of consideration. He was considered in the selection process. However, the result of the selection in relation to him was kept in a sealed cover. The petitioner challenged the same by filing

CWJC No. 11452 of 2014. His plea was that though no disciplinary proceedings were pending against him, his selection was kept in sealed cover and in the process, his juniors were promoted.

In the counter affidavit, the respondents pleaded that a complaint was received on 9.1.2013 from the District Magistrate, Nawada with an allegation referable to the petitioner and in that view of the matter, the sealed cover procedure was adopted. It was also mentioned that charge-sheet was issued to the petitioner on 7.8.2014.

The learned Single Judge took note of the fact that on 9.1.2013 as many as 12 allegations were made against the petitioner and held that the sealed cover procedure adopted by the respondents is correct; and accordingly dismissed the writ petition. Directions were issued to conclude the departmental proceedings, at the earliest.

It is brought to our notice that the enquiry officer submitted a report on 26.6.2015 holding that the charges against the appellant are not proved and accordingly the departmental proceedings were dropped.

Heard Mr. Y V Giri, learned senior counsel for the appellant, and Mr. Kaushal Kumar Jha, learned counsel for the respondents.

For all practical purposes, the obstacle for consideration of the case of the appellant for promotion is removed with the dropping of the departmental proceedings. That however is not end of the matter. It has to be seen as to whether there was any justification or basis for the respondents to adopt the sealed cover procedure vis-à-vis the petitioner. It hardly needs any mention that the sealed cover procedure can be adopted if only the concerned officer was facing the departmental proceedings. It is also fairly well settled that departmental proceedings can be said to have been initiated, only when a charge-sheet has been served. Admittedly, the charge-sheet in the instant case was served only on 7.8.2014, i.e. four months after the Departmental Promotion Committee met.

It may be true that basis for initiation of the departmental proceeding was the letter dated 9.1.2013 addressed by the District Collector. However, that itself was taken as charge-sheet. We do not find that to be correct. If that is so, the Collector assumes the character of the disciplinary authority, which is totally impermissible in law.

Therefore, the Appeal is allowed and the order under appeal is set aside. Consequently, the writ petition is allowed and the sealed cover procedure adopted by the respondents vis-à-vis the petitioner is held to be not in accordance with law. The respondents shall forthwith open the sealed cover and proceed as though there was no necessity to adopt the sealed cover procedure when the Departmental Promotion Committee met on 7.4.2014. In case the appellant has been cleared by the Committee, he shall be deemed to have been promoted on par with other persons who are cleared by the Departmental Promotion Committee, duly maintaining the seniority as per the rules.

**(L. Narasimha Reddy,CJ)**

**(Anjana Mishra, J)**

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