

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14920 of 2007

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Bipin Kumar Srivastava, S/o late Kamta Prasad Srivastava, resident of Village Rupauli, P.S. Karja, Dist. Muzaffarpur, presently posted as Assistant Sub-Inspector of Police, in Akbarnagar Police Station Distt. Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Director General of Police, Bihar, Patna.
3. The Deputy Director General of Police (Human Right), Bihar, Patna.
4. The Deputy Director General (I/C Personnel), Bihar, Patna.
5. The Deputy Director General of Police, Eastern Region, Bhagalpur.
6. The Superintendent of Police, Bhagalpur.
7. The State of Jharkhand at Ranchi.
8. The Director General of Police, Jharkhand State at Ranchi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. A.K.Mallick, Adv.
For the State : Mr. Sanjay Prasad, AC to AAG-6
For the State of Jharkhand : Mr. Satyavrat Verma, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 20-07-2015

Heard learned counsel for the parties.

2. The prayer of the petitioner in this writ application

reads as follows:-

“1. That the instant writ petition is for issuance of an appropriate writ/writs, direction/directions, order/orders for commanding the concerned respondents to promote the petitioner in the rank and post of Sub-Inspector of Police with all consequential financial benefits on the basis of state level merit-cum-seniority list with effect from the date of promoting several junior persons belonging to the rank of Asst. Sub-Inspector of Police as denial of such promotion to the petitioner is violative of Article 14 & 16 of the

Constitution of India.”

3. In the considered opinion of this Court, there cannot be a better vague prayer than what has been made in this writ application. Such prayer is in fact incapable of being understood as to when the junior of the petitioner was promoted and who was that junior person because none of the person, allegedly junior to him, has been impleaded as a party to this writ application.

4. As a matter of fact, after the writ application was filed on 22.11.2007, the petitioner had also filed an interlocutory application, I.A. No. 1344 of 2008 wherein he had sought quashing of the order dated 28.12.2007, whereby and whereunder, he had been relieved by the Superintendent of Police, Bhagalpur for his joining in the State of Jharkhand pursuant to his allocation of service to the State of Jharkhand in terms of the Bihar Re-organization Act. According to the petitioner, such order of his being relieved for the State of Jharkhand would takeaway his vested right for being considered for promotion in the State of Bihar.

5. The submission of the learned counsel for the petitioner that details can be found out from the reading of the writ application will also be of no avail because from the perusal of the averments in the writ application as well as reading the counter affidavit, it is as clear as day that the petitioner, being a police officer, is a highly



undisciplined person who, even being allocated the State of Jharkhand by the Central Government in the year 2005 in terms of Section 72 read with Section 74 of Bihar Re-organization Act, 2000, had the audacity to continue to work in the State of Bihar on the plea of his being not relieved. A police officer like the petitioner, the moment his allocation was made under the order of the Central Government, he was supposed to report in the State of Jharkhand and, therefore, if the petitioner had overstayed in the State of Bihar, that cannot give him a cause of action for earning promotion in the year 2006 in the State of Bihar on the ground of promotion of his juniors who in fact no longer remained his junior since 2005 once the petitioner was finally allowed the State of Jharkhand. The cadre of the petitioner, on account of final re-allocation in the year 2005 to the State of Jharkhand, became different and that too with effect from 15.11.2000, the appointed day under Bihar Re-organization Act serving all his earlier relationship with the erstwhile State of Bihar and, therefore, he cannot claim any benefit of promotion of the year 2006 in the State of Bihar merely because he was allegedly not relieved earlier. Each and every right of the petitioner, therefore, upon being allocated the State of Jharkhand by the Central Government way back in 2005 and upon his joining over there in the year 2007, can be considered by his present employer i.e. the State of Jharkhand.



6. Learned counsel for the Jharkhand has in fact submitted that the petitioner has already given promotion by the State of Jharkhand with effect from 2010 and, thus, if the petitioner was aggrieved on account of his promotion being made with effect from 2010 instead of his claim of 2006 on the ground that someone junior to him in the State of Jharkhand had been promoted, probably he could have made out a case for shifting his date of promotion but his claim for such promotion with effect from 2006 on the ground that some one junior in the State of Bihar had been promoted is a hopeless plea which must be rejected at the threshold.

7. The petitioner in fact cannot claim any right in the State of Bihar after his reallocation of cadre to the State of Jharkhand in the year 2005. In fact, on reallocation, the State of Jharkhand also has to decide promotion on the basis of seniority as existing on 15.11.2000 and the petitioner thereupon cannot be allowed to steal march over his seniors in the State of Jharkhand by getting promotion from the State of Bihar which also had notified promotion of its officers who were allocated the State of Bihar only in the year 2006 after final allocation made in the year 2005 by the Central Government.

8. The petitioner, in fact, now wants to make out a case that even after allocation/re-allocation in the State of Jharkhand in the year 2005, his seniority should be allowed to be reckoned in the State

of Bihar in the year 2006 and, therefore, he should be given promotion by treating those persons continuing in the State of Bihar who were at one point of time prior to 2005, junior to him. This is absolutely impermissible in terms of the Bihar Re-organization Act.

9. That being so, this writ application is wholly misconceived and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

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