

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11452 of 2014

=====

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

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Department of General Administration, Govt. of Bihar, Patna
2. 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

=====

Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh

Ms. Vagisha Pragya Vacaknair

For the Respondent/s : Mr. Kaushal Kumar Jha, AAG-14

Mr. Shankar Kumar Choudhary, AC to AAG-14

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 07-01-2015

Heard the parties.

The petitioner is aggrieved by the resolution dated 07.04.2014 of the Departmental Promotion Committee, as contained in Annexure-1 to the writ petition as also the consequential memorandum dated 27.05.2014 (Annexure-2) prepared for approval by the Cabinet of the State Government, whereby claim of the petitioner for his promotion on the higher post was considered, but it has been kept in a sealed cover.

Learned counsel appearing on behalf of the



petitioner has submitted that when the meeting of the Departmental Promotion Committee was held on 07.04.2014 neither any departmental proceeding nor any criminal proceeding was pending against the writ petitioner and, therefore, the Departmental Promotion Committee could not have kept the claim of the petitioner for promotion on the higher post in a sealed cover. According to him, the procedure adopted by the Departmental Promotion Committee is contrary to the law laid down by the Hon'ble Apex Court and contrary to the government resolution also.

Learned AAG-14 appearing on behalf of the respondents has strongly opposed the prayer and disputed the averments made in the writ petition filed on behalf of the petitioner by referring to the averments made in the counter-affidavit filed on behalf of the respondent no. 3, 5 and 9. He has drawn attention of the Court to the averments made in paragraph-10 of the aforesaid counter-affidavit and the documents as contained in Annexure-B to that counter-affidavit. It is contended that the departmental proceeding was already pending against the petitioner prior to the holding of the meeting of the Departmental Promotion Committee. By referring to Annexure-B to the aforesaid counter-affidavit, it is submitted that as far back as on 09.01.2013 charge memo was framed against the petitioner in Proforma-Ka wherein there are as many as 22 articles of charges against him. It is also contended that the departmental proceeding so initiated against the petitioner is at an advanced stage.

After having heard the parties and taking into consideration the materials available on record, this Court finds that charge memo was issued to the petitioner as far back as on

09.01.2013 detailing as many as 22 articles of charges. In view of the aforesaid facts and in view of the facts that the departmental proceeding was already pending against the petitioner when the meeting of the Departmental Promotion Committee was held on 07.04.2014 and further in view of the law laid down by the Hon'ble Apex Court in the case of **Union of India vs. K.V.Jankiraman** [AIR 1991 SC 2010] particularly paragraph-6 of the aforesaid judgment, this Court does not find any good ground to interfere with the impugned resolution of the Departmental Promotion Committee as also the consequential memorandum prepared for approval by the State Cabinet, as contained in Annexure-1 and 2 respectively. Hence, the writ petition has to fail and is, accordingly, dismissed. However, the respondent shall be obliged to take the departmental proceeding pending against the petitioner to its logical conclusion at an early date.

(Birendra Prasad Verma, J)

BTiwary/-

U			
---	--	--	--