

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7576 of 2014

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Sri Akhileshwar Sharan son of Late Sant Charan Lal, Resident of Laxmi Narain Road, Mohalla Islampur, P.S. Town Muzaffarpur, District - Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, General Administrative Department, Govt. of Bihar, Patna
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna
4. The Principal Secretary, Animal Husbandary and Fishery Department, Govt. of Bihar, Patna
5. The Director GABYA VIKASH Directorate, (Director Dairy) Department, Govt. of Bihar, Patna
6. Kunj Bihar Singh Son of not known Resident of Flat no. 405, Shivam Heritage Block - A Magistrate Colony, Ashiyana, Ram Nagari, P.S. Shastri Nagar, District - Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Harishankar Roy

For the Respondent/s : Mr. Dhananjay Kumar, AC o GP-16

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 28-01-2015

Heard the parties.

The grievance of the petitioner in the present writ petition filed under Article 226 of the Constitution of India is that against the provisional seniority list published on 25.05.2012 (Annexure-12) by the respondent Director (respondent no.5) showing the petitioner junior to the respondent no. 6, he filed his representation as contained in Annexure-13 as also Annexure-15 for correction of the aforesaid provisional seniority list, but his representation/ objection has not been decided till date.

Learned counsel appearing on behalf of the petitioner submits that by virtue of date of entry in the service, which is reflected in the impugned seniority list, the petitioner ought to have been treated to be senior to the respondent no.6, but that has not been

done. The representation filed by him was not considered and in the meantime, the petitioner superannuated from service on 31.10.2013.

A counter-affidavit has been filed on behalf of the respondent no. 4 and 5 resisting the prayer made on behalf of the petitioner in the present writ petition. However, learned A.C. to G.P. 16 appearing on behalf of the respondent no. 1 to 5 has fairly conceded that there is no averment in the counter affidavit filed on behalf of the respondent no. 4 and 5 about disposal of the objection/representation filed by the petitioner against the impugned seniority list.

In the aforesaid factual matrix, this Court is of the opinion that instead of keeping the matter pending before this Court for final adjudication, the interest of justice shall be sub-served if the petitioner is granted liberty to file a comprehensive representation before the Principal Secretary, Animal Husbandry and Fishery Department (respondent No. 4) with all supporting documents, raising all the pleas, which have been raised in the present writ petitioner. It is ordered accordingly.

If such a comprehensive representation is filed on behalf of the petitioner within a period of one month from today with a certified copy of the present order, then the respondent No.4 either himself or any other competent authority of the respondent State shall be obliged to consider and decide the claims of the petitioner, after giving an opportunity of hearing to all concerned, by a reasoned and speaking order at an early date preferably within a period of four months from the date of filing of such representation.

If on consideration of the materials the competent authority comes to a conclusion that claims raised on behalf of the petitioner are admissible to him, then consequential benefits shall also be granted to

him without any unnecessary further delay.

This is clarified that this Court has not gone into the merits of the claims raised on behalf of the petitioner in the present writ petition and this is left to be decided by the competent authority strictly in accordance with law.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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