

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13912 of 2015

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1. Vikash Kumar Sinha son of Shri Akhileshwar Prasad Sinha resident of Mithapur B Area, P.S. - Jakkanpur, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise & Prohibition Department, Bihar, Patna.
2. Principal Secretary, General Administration Department, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava

For the Respondent/s : Mr. Harishankar Roy, AC to PAAG

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 18-09-2015

Annexure- 3, dated 19.12.2014 is the notification by virtue of which petitioner came to be granted promotion on substantive basis on the post of Assistant Commissioner of Excise. This promotion seems to have been given or granted after due approval of the Cabinet taken on 3.6.2014. However, soon thereafter yet another notification dated 26.12.2014 contained in Annexure- 4 came to be issued staying the notification contained in Annexure- 3.

From a reading of Annexure- 4, it is evident that it is the General Administration Department's order dated 12.8.2014, which is order no.11218, which was the cause for issuance of Annexure-4.

The State Government decisively lost before the learned

Single Judge and the resolution relating to grant of reservation in promotion for SC/ ST has been quashed. The Single Judge's order has also been affirmed by a Division Bench. Now, the matter has travelled to the Hon'ble Apex Court.

An employee cannot keep waiting to derive benefit of a substantive promotion granted to him after due consideration at the highest level in terms of Annexure- 3 awaiting the outcome of what the Hon'ble Apex Court may have to say. There is no mechanism by which it can be deduced that a decision will be rendered in near future and that too in favour of the State.

The Court, therefore, quashes Annexure- 4, allows the writ application and directs the State authorities to enforce and implement Annexure- 3. They may, however, indicate in the order that such a decision will be subject to the outcome of the SLP and the right of the petitioner accruing from the decision contained in Annexure- 3 cannot be treated to be an absolute right, if the decision of the Hon'ble Apex Court is otherwise.

Writ is allowed.

(Ajay Kumar Tripathi, J)

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