

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14146 of 2007

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1. Smt. Vidyavati Devi, widow of Late Gupteshwar Nath Upadhyay
 2. Abhishek Kumar Upadhyay, son of late Gupteshwar Nath Upadhyay,
Both residents of Moh. – Sheoganj, P.S. Town Thana, District Bhojpur,
Ara
 3. Smt. Pratibha Devi, daughter of Late Gupteshwar Nath Upadhyay and
W/o Munna Pandey, Vill. – Dilmanpur, P.S. Karnamepur, Distt.
Bhojpur.

.... Petitioners

Versus

1. The State of Bihar through the Secretary to the Government of Bihar
in the Department of Revenue and Land Reforms, Bihar, Patna.
2. The Personnel Commissioner, Government of Bihar, Patna.
3. The Finance Commissioner, Government of Bihar, Patna.
4. The Accountant General, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. A.B.Ojha

For the Respondent/s : A.C. to Addl. Advocate General - 10

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5. 26-02-2015 Heard Sri A.B.Ojha, learned counsel for petitioners
and learned A.C. to Addl. Advocate General – 10.

The present writ petition was filed by the original petitioner, namely; Gupteshwar Nath Upadhyay, with a prayer to direct the respondents to consider his case for promotion to the post of Section Officer, Under Secretary/Deputy Secretary to which juniors to the petitioner were promoted. During the pendency of the writ petition, the sole petitioner died and thereafter, legal heirs have been substituted.

In this case, a detailed counter affidavit has been filed on behalf of respondent no. 2 and in paragraph 25 of the counter

affidavit, following facts have been disclosed:-

“...in the light of amendment, Section 3 of Ordinance 1989 (Bihar Ordinance-9 1989) of Assistants of Secretariat and its attached offices, the petitioner cannot be granted any promotion prior to 30.8.1988. However, when the new gradation list of Assistants will be finally published in the light of order and judgment passed by the Hon’ble Apex Court in Civil Appeal No. 594 of 2007 and S.L.P. No. 13257 of 2003, matter of the original petitioner will be considered on merit and in the light of final gradation list of the petitioner and other Assistants of Secretariat.”

In view of statement made in the counter affidavit, the Court proposes to dispose of the writ petition, with an expectation that respondents may abide with their undertaking given in the counter affidavit as early as possible.

The writ petition stands disposed of.

(Rakesh Kumar, J.)

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