

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21343 of 2014

=====

Rameshwar Singh, aged about 59 years and 6 months, S/o Late Kedar Nath Singh,
Resident of Village + P.O. Dhokraha, P.S. Majhauria, District- West Champaran at
Bettiah, at present posted as Deputy Development Commissioner, Nawada.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary-Cum-Commissioner, General Administration
Department, Government of Bihar, Patna.
3. The Deputy Secretary, General Administration Department, Govt. of Bihar,
Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Advocate
Mr. Mukesh Kumar Singh

For the Respondent/s : Mr. Rakesh Kumar Chandram, AC to GP1

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 26-03-2015

A K Tripathi, J.

Petitioner is on the verge of retirement and belongs to Bihar Administrative Service and is at present holding the post of Deputy Development Commissioner at Nawada. The reason for him to file this writ application is issuance of Annexure-5 dated 18.6.2014, by virtue of which large number of persons have been granted promotion to the rank of Joint Secretary with a particular pay band and grade pay. Petitioner's case is that persons whose name figures from serial No.44 onward are all juniors to him and his claim for consideration for promotion has been sidetracked on a contrived kind of reason and stale kind of allegation which is more than 25 years old.

2. Petitioner has filed a supplementary affidavit during the pendency of the present writ application since a hurried kind of punishment of 'censor' was imposed upon the petitioner with regard to a project and assignment which he was



supposed to carry out under the MLA's Scheme in the district of Saharsa, in the year 1990-91. At that point of time petitioner was posted as Block Development Officer. Petitioner had offered his explanation, matter came to rest. Nothing thereafter was done on that explanation. Petitioner earned two different promotions on the next higher ranks subsequently. But when it came down to promotion as a Joint Secretary, the past was raked up as a ground and a hurried kind of order of punishment of 'censor' was imposed on 18.12.2014.

3. Without going into the controversy or the question whether the punishment order is legal or not at this juncture, the fact that the punishment of 'censor' is supposed to relate back to the year of the charge, as is evident from reading of Annexure-6, annexed with the supplementary affidavit, the same has lost its effect many decades ago.

4. Obviously, there was somebody interested in the Government to ensure that the petitioner does not beget the benefit of promotion as a Joint Secretary and a dead issue was made an alive issue, which also does not create any impediment in consideration of the claim of the petitioner for promotion. It is rank dishonest kind of action and conduct on the part of the authorities who have innovated to deny the petitioner his rightful claim for consideration, if not promotion as a Joint Secretary.

5. In the counter affidavit same charges or allegations have been raked up which have already been dealt with in the earlier part of the order. By which interpretation of law or judgment this punishment order can come in the way of consideration of the case of petitioner for promotion is not being explained by the State especially when petitioner has earned two promotions earlier as well. But then the Court has no hesitation in recording that the order dated 18.12.2014, which is the order of punishment, has lost its meaning and the same cannot come

in the way now.

6. Writ application is allowed.

7. Direction is issued upon the Principal Secretary, General Administration, Government of Bihar that the case of promotion of the petitioner will be placed before the DPC for consideration after opening the sealed cover and a decision taken within a period of three months from the date production of a copy of this order.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

U			
---	--	--	--